FEDERAL REGISTER

VOLUME 31 • NUMBER 226

Tuesday, November 22, 1966 • Washington, D.C.

Pages 14767–14820

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Current White House Releases

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS

The *Weekly Compilation of Presidential Documents* began with the issue dated Monday, August 2, 1965. It contains transcripts of the President's news conferences, messages to Congress, public speeches, remarks and statements, and other Presidential material released by the White House up to 5 p.m. of each Friday.

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Subscription Price: $6.00 per year

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from: Superintendent of Documents,
U.S. Government Printing Office,
Washington, D.C. 20402

FEDERAL REGISTER
Area Code 202 Phone 963-3261

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration (mail address National Archives Building, Washington, D.C. 20408), pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 8B), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1966, and specifies how they are affected.

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Title 7—AGRICULTURE

Chapter XI—Consumer and Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture

PART 1205—COTTON RESEARCH AND PROMOTION ORDERS

Subpart—Procedure for the Conduct of Referenda in Connection With Cotton Research and Promotion Orders

AGENCIES THROUGH WHICH A REFERENDUM SHALL BE CONDUCTED

The regulations governing the procedure for the conduct of referenda in connection with cotton research and promotion orders issued pursuant to the Cotton Research and Promotion Act (80 Stat. 279) are hereby amended as follows:

In § 1205.202(a)(4), subdivision (iii) is amended by deleting the words in line 12 thereof reading "prior to the beginning of the referendum," and substituting therefor the words "prior to the expiration of the referendum period,". As so amended, § 1205.202(a)(4)(iii) reads as follows:

§ 1205.202 Agencies through which a referendum shall be conducted.

(a) *Consumer and Marketing Service.*

* * *

(4) * * *

(iii) If an eligible voter is engaged in production of upland cotton on more than one farm he is entitled to only one vote but any vote cast by such voter shall represent the total amount of upland cotton that is his share of the crop, or proceeds thereof, on all such farms: *Provided*, That only farms for which records are maintained by the ASCS county office designated as the voter's polling place shall be considered unless the voter, prior to the expiration of the referendum period, establishes to the satisfaction of such county office his share of the crop, or proceeds thereof, on any additional farm or farms.

* * * * *

(Sec. 15, 80 Stat. 285)

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER.

Dated: November 17, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 66-12616; Filed, Nov. 21, 1966; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Docket No. 7390; Amdt. 39-312]

PART 39—AIRWORTHINESS DIRECTIVES

Lear Jet Model 23 and 24 Airplanes

AD 66-14-2 (amendments 39-242 and 39-271) requires certain modifications of the electrical system of Lear Jet Model 23 and 24 airplanes. This amendment revises that airworthiness directive in order to reference the Lear Jet Engineering data covering these modifications.

As this amendment imposes no additional burden on any person, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not required and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 39.13 of Part 39 of the Federal Aviation Regulations, amendment 39-242, AD 66-14-2, as amended by amendment 39-271, is further amended as follows:

Paragraph (c) of AD 66-14-2 (amendment 39-242 as amended by amendment 39-271) is amended to read as follows:

(c) Modify the electrical system on Model 23 airplanes, and on Model 24 airplanes S/N 24-100 through 24-129, in accordance with Lear Jet Engineering Change Record No. 340, 227, 230, or 233 (as applicable) or equivalent data approved by the Chief, Engineering and Manufacturing Branch, Central Region within the next 550 hours' time in service after the effective date of this Airworthiness Directive. The affected airplanes and applicable data are as follows:

(1) S/N 23-012 and 23-031, Engineering Change Record No. 340.

(2) S/N 23-003 through 23-011, 23-013 through 23-030, and 23-032 through 23-099, Engineering Change Record No. 340, 227, 230 or 233.

(3) S/N 24-100 through 24-129, Engineering Change Record No. 340.

This amendment becomes effective November 22, 1966.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on November 16, 1966.

C. W. WALKER,
Director, Flight Standards Service.

[F.R. Doc. 66-12567; Filed, Nov. 21, 1966; 8:45 a.m.]

[Airspace Docket No. 66-EA-41]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On pages 11759 and 11760 of the FEDERAL REGISTER for September 8, 1966, the Federal Aviation Agency published proposed regulations which would designate a 700-foot floor transition area for Dunkirk, N.Y.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., January 5, 1967.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Jamaica, N.Y., on November 3, 1966.

WAYNE HENDERSHOT,
Deputy Director.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor transition area for Dunkirk, N.Y., as follows:

DUNKIRK, N.Y.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 42°29'35" N., 79°16'20" W., of Dunkirk Municipal Airport, Dunkirk, N.Y.; within 2 miles northwest and 5 miles southeast of the Dunkirk, N.Y. VOR 046° radial extending from the VOR to 12 miles NE of the VOR; and within 2 miles each side of the Runway 15 centerline extended from the 5-mile radius area to 10 miles southeast of the lift-off end of the runway.

[F.R. Doc. 66-12568; Filed, Nov. 21, 1966; 8:45 a.m.]

[Airspace Docket No. 66-EA-52]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

On page 11616 of the FEDERAL REGISTER for September 2, 1966, the Federal Aviation Agency published proposed regulations which would designate a Pittsfield, Maine, 700-foot floor transition area.

Interested parties were given 45 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0001 e.s.t., February 2, 1967.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348))

Issued in Jamaica, N.Y., on November 3, 1966.

WAYNE HENDERSHOT,
Deputy Director, Eastern Region.

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a 700-foot floor transition area for Pittsfield, Maine, as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°46'05" N., 69°22'40" W., of Pittsfield Municipal Airport, Pittsfield, Maine and within 2 miles each side of the Burnham, Maine, RBN (44°41'50" N., 69°-21'30" W.) 350° and 170° bearings extending from the 5-mile radius area to 8 miles south of the RBN.

[F.R. Doc. 66-12569; Filed, Nov. 21, 1966; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Three-Party Promotional and Merchandising Assistance Plan Available to Direct and Indirect Purchasers

§ 15.103 Three-party promotional and merchandising assistance plan available to direct and indirect purchasers.

(a) The Commission advised the promoter of the three-party promotional assistance plan outlined below that, subject to the admonitions indicated, the plan would not violate Commission administered law.

(b) The promoter proposes to provide promotional and merchandising assistance to suppliers of products normally sold in grocery and drug stores. In return for in-store promotion of participating suppliers' products by (1) providing shelf space at least equal to that given competing products selling in the same volume (2) installing shelf markers or other in-store signs furnished by the promoter advertising the promoted products, (3) maintaining adequate supplies (i.e. what the retailer decides he needs to avoid a sellout) of promoted products and (4) periodic (1 week in each quarter) off shelf displays (aisle end or other than normal shelf position), the retailer would earn an amount equal to 2 percent of his net purchases of promoted products, subject to a maximum monthly payment of $40 per store. Earnings would be computed on a store-by-store basis. The amount earned would be based on purchases of promoted products regardless of whether the retailer purchased directly from the supplier or through a wholesaler.

(c) In addition, retailers could, at their option, buy or rent in-store sound equipment and purchase a background music service from the promoter. The speakers could be used for in-store announcements by the retailers; however, participating suppliers' advertisements would not be broadcast over the network stores. The charges to the retailers for the sound system and music would be applied monthly or quarterly to promotional assistance payments earned for participation in the plan (i.e. the 2 percent of purchases). Any excess of earnings over charges would be paid to the retailers in cash.

(d) At the outset and every 6 months thereafter, the plan would be offered by letter from the promoter to all drug and grocery outlets listed in the yellow pages of the telephone book, which list would be supplemented by participating suppliers' lists of competing customers selling the promoted product.

(e) Participating retailers would agree to allow the promoter's representatives to check on performance and submit reports to suppliers. The reports would contain information regarding the shelf space given the supplier's promoted product, the prices at which it is sold, its shelf position (eye, waist, or bottom level) and the like.

(f) With regard to the admonitions, the Commission expressed the view that:

(1) In addition to the letter at the outset and every 6 months to each competing reseller of promoted products of the supplier, new, competing customers should be offered the plan when the first sale of the promoted product is made to them. The reason is that such new customers are entitled to be offered the assistance promptly.

(2) The reports the promoter submits to suppliers should not contain information which may be used for price fixing purposes.

(3) Prospective participants in the plan should be told: (i) The fact that the promoter is positioned between the supplier and the supplier's customers—the retailers—does not affect applicability of sections 2 (d) and (e) of the Robinson-Patman Act and section 5 of the Federal Trade Commission Act to the plan; (ii) even though the promoter is employed, it is the supplier's responsibility to make certain that each of his customers who compete with one another in selling the promoted product is offered the opportunity to participate. If opportunity is not offered, or an illegal discrimination results, the supplier, the retailer and the promoter may be acting in violation of section 2 (d) or (e) of the Robinson-Patman amendment to the Clayton Act and/or section 5 of the Federal Trade Commission Act.

(38 Stat. 717, as amended; 15 U.S.C. 41-58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: November 21, 1966.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 66-12602; Filed, Nov. 21, 1966; 8:48 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 66-258]

PART 13—EXAMINATION, MEASUREMENT, AND TESTING OF CERTAIN PRODUCTS

Retests of Sugar, Molasses, and Sirup

The purpose of this amendment of the regulations is to eliminate the provision under which an importer may request a retest of raw sugar cargoes and, in lieu thereof, establish a procedure whereby an importer may request a review of Customs average test. According to available records, no importer has requested retests of sugar in the past 15 years. Occasionally, minor differences have been resolved by a review of the pertinent records. It is believed that such a review would be adequate to reconcile significant differences between the separate tests made by the Government and the importer should such differences arise.

Notice of the proposed amendment of the regulations was published in the FEDERAL REGISTER on March 3, 1966 (31 F.R. 3347), at which time the submission of comments in writing was invited. Upon consideration of the comments received, it has been determined to adopt the regulation as proposed. However, the proposed language of § 13.8(b) is revised to make clear that the procedure for review in the case of retests of molasses and sirups is not being changed. In addition, references to customs officers are being changed to reflect the recent reorganization of the Customs Service.

Accordingly, § 13.8 is amended to read as follows:

§ 13.8 Review of tests of sugar, molasses, and sirup.

(a) When the test of the sugar has been determined, the importer shall be immediately notified on customs Form 6463 of the average test of the importation and also the quantity and test of each lot from which such average test is obtained. If the importer, within 2 days, exclusive of Saturdays, Sundays, and holidays, after such notice has been sent to him, claims an error in the test so reported, he may request a review of the average test, submitting such evidence that may be in his possession to support his claim. Settlement tests of the sugar in question together with any information required by the district director shall be furnished by the importer. The district director shall arrive at a final determination based upon a review of the information available. In no instance shall a request for review be granted when the difference between the Customs average test and the settlement test is less than 0.4° S.

(b) In the case of molasses and sirup, a retest shall be granted by the district director when the information in his possession indicates a strong probability of an error and the difference between the Customs test and the settlement test

is shown to be not less than 2 percent total sugars. In general, before granting a retest, the review procedures set forth in paragraph (a) of this section shall be followed. The district director shall arrive at a final determination based upon a review of the information submitted and the retest (77A Stat. 14; 19 U.S.C. 1202 (Gen. Hdnote. 12)).

(R.S. 161, as amended, 251, sec. 624, 46 Stat. 759; 5 U.S.C. 22, 19 U.S.C. 66, 1624)

These regulations shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: November 10, 1966.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 66-12599; Filed, Nov. 21, 1966; 8:48 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Excise Taxes Collected by Return

Correction

In F.R. Doc. 66-12060, appearing at page 14351 of the issue for Tuesday, November 8, 1966, the following correction is made in § 601.403(c)(1): The phrase reading "Returns of the tax on wages" should read "Returns of the tax on wagers".

Title 27—INTOXICATING LIQUORS

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 6901]

PART 6—INDUCEMENTS FURNISHED TO RETAILERS

Furnishing of Window and Other Interior Displays by Industry Members to Retail Liquor Dealers

Notice of public hearing to be held in Washington, D.C., on January 11, 1966, with respect to certain proposals to amend 27 CFR Part 6, Inducements Furnished to Retailers was published in the FEDERAL REGISTER on December 16, 1965 (30 F.R. 15470). Upon the conclusion of the said hearing and after a thorough study of the proposals in the light of relevant material submitted by interested persons thereat, the following conclusions have been reached:

1. It had been proposed (proposal No. 2 in the notice of hearing) to amend § 6.23a (which related to distilled spirits only) to permit displays (for use in windows or elsewhere in the interior of a retail establishment) to include items having utilitarian or secondary-use value to the retailer, if such items are an integral part of the display and their cost does not exceed $3 (this amount subject to increase or decrease on the basis of evidence submitted at the hearing), and such cost is included in the overall cost of the display. Only one such item would be permitted in any one display.

The evidence submitted failed to establish that proposal No. 2 is in accordance with established trade customs or that its adoption would be in the public interest and in accordance with the purposes of 27 U.S.C. 205(b)(3), since it would authorize the inducement of purchases through supplying the retailer with items of utilitarian value not connected with his business and is not supported by a showing that its allowance is now reasonably necessary to legitimate merchandising requirements.

2. It had been proposed (proposal No. 3 in the notice of hearing) to amend § 6.28 with respect to distilled spirits only, so as to increase from $10 to $25 (or to some intermediate amount) the limitation contained therein on the aggregate annual cost of retailer advertising specialties in any one retail establishment.

The evidence of record failed to establish a need for this increase in the limit on the cost of retailer advertising specialties which may be furnished retailers regardless of inducement effect or that such an increase would be in accordance with established trade customs. In view of the likelihood that inducement effect may increase in direct proportion to the value of the specialties which may be furnished, adoption of the proposal at this time appears not to be in the public interest or in accordance with the purposes of the controlling statute. Therefore, the proposal is rejected.

3. It had been proposed (proposal No. 1 in the notice of hearing) to amend § 6.21 by changing the proviso therein to read as follows: "*Provided*, That, except for the inside signs and displays covered by § 6.23(a) such furnishing is not conditioned, directly or indirectly, on the purchase of distilled spirits, wine, or malt beverages."

The record of the hearing indicated a need for clarification of the regulations as they now exist so as to negate any implication that a supplier, furnishing a window or other interior display under the regulations may not, at the same time, sell the retailer a reasonable quantity of merchandise to fill out the display. For purposes of clarification, 27 CFR 6.21 is amended by revising the proviso therein to read:

§ 6.21 General.

* * * *Provided*, That, except for such alcoholic beverages as may reasonably be required to complete a window or other interior display furnished pursuant to § 6.23 or § 6.23a, such furnishing is not conditioned directly or indirectly on the purchase of distilled spirits, wine, or malt beverages.

This amendment shall become effective 30 days after the date of publication in the FEDERAL REGISTER.

(49 Stat. 981, as amended; 27 U.S.C. 205)

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

Approved: November 16, 1966.

STANLEY S. SURREY,
Assistant Secretary of the Treasury.

[F.R. Doc. 66-12603; Filed, Nov. 21, 1966; 8:48 a.m.]

Title 29—LABOR

Subtitle A—Office of the Secretary of Labor

PART 40—FARM LABOR CONTRACTOR REGISTRATION

Miscellaneous Amendments

In the October 12, 1966, issue of the FEDERAL REGISTER (31 F.R. 13174), there was published a proposal to amend 29 CFR Part 40. Interested persons were given 15 days in which to file written statements of data, views, or argument in regard to the proposal. None was received. Accordingly, effective December 19, 1966, I have decided to and do hereby adopt the proposal to read as set forth below. The amendment differs from the proposal only in that the words "Certificate of Insurance" are substituted for the word "Policy" where it appears on the 10th line of § 40.4(c)(2).

Signed at Washington, D.C., this 15th day of November 1966.

ROBERT C. GOODWIN,
Administrator, Bureau of Employment Security.

1. Section 40.3 is amended to read as follows:

§ 40.3 Certificate of Registration required.

(a) On or after January 1, 1965, the effective date of the Farm Labor Contractor Registration Act of 1963, any person who desires to engage in activities as a farm labor contractor, as defined in the Act, must first obtain a Certificate of Registration.

(b) A farm labor contractor who holds a valid Certificate of Registration is responsible for assuring that his full-time or regular employees have filed applications for Farm Labor Contractor Employee Identification Cards before they participate in any of the activities enumerated in section 3(b) of the Act.

2. Section 40.4 is amended to read as follows:

§ 40.4 Application for Certificate of Registration.

(a) The application for a Certificate of Registration on Form ES-410 is available and must be executed and filed in any office of the Employment Service of

the various States, except that in States requiring licensing or registration of farm labor contractors under State law, such application shall be available and shall be filed at the Employment Service office of such State or the same office where the State registration or license is filed, whichever may be designated by the Governor of such State.

(b) The application shall set forth the information required thereon, shall be subscribed and sworn to by the applicant and shall have attached the applicant's fingerprints on a completed Form FD–258.

(c) Before any person may transport, within the meaning of the Act, migrant workers and their property in any vehicle which he owns, operates, or causes to be operated, he shall have complied with the insurance or financial responsibility requirements of the Act by having submitted the following:

(1) A completed Farm Labor Contractor Automobile Liability Certificate of Insurance, showing that the passenger hazard is included (as evidence of liability insurance which covers the workers while being transported). Such certificate represents that an automobile liability insurance policy including a Farm Labor Contractor Liability Endorsement provides insurance in an amount not less than that required under the law or regulation of any State in which such applicant operates a vehicle in connection with his business, activities, or operations as a farm labor contractor; but in no event less than $5,000 for bodily injuries to or death of one person; $20,000 for bodily injuries to or death of all persons injured or killed in any one accident; $5,000 for the loss or damage in any one accident to property of others, and that it was obtained from an insurance carrier licensed or otherwise authorized to do business in the State in which the insurance is obtained; or

(2) Proof of financial responsibility evidenced by (i) a completed Farm Labor Contractor Standard Accident Policy Certificate of Insurance, as evidence of the issuance of a Farm Labor Contractor Standard Accident Policy, in addition to a completed Farm Labor Contractor Automobile Liability Certificate of Insurance, if the Farm Labor Contractor Automobile Liability Certificate of Insurance shows that the passenger hazard has been excluded; or (ii) a liability bond executed by the applicant, identified in the instrument as the "principal," together with a third party, identified in the instrument as the "surety," to assure payment of any liability up to $50,000 for damages to persons or property arising out of the applicant's ownership of, operation of, or his causing to be operated any vehicle for the transportation of migrant workers in connection with his business, activities, or operations as a farm labor contractor. The "surety" shall be one which appears on the list contained in Treasury Department Circular 570, with an underwriting limit of not less than $50,000 or which has been approved by the Secretary under the Welfare and Pension Plan Disclosure Act, as amended. Treasury Department Circular 570 may be obtained from the U.S. Treasury Department, Bureau of Accounts, Division of Deposit and Investments, Surety Bonds Branch, Washington, D.C. 20226.

(d) The foregoing provisions of paragraph (c) of this section must be complied with, except to the extent that other arrangements have been approved by the Secretary.

(e) Any insurance policy or liability bond which is obtained pursuant to this Act should provide the required coverage for the full period during which the applicant for a Certificate of Registration shall be engaged in transporting migrant workers within the meaning of the Act during a calendar year. If a policy or liability bond shall expire within 30 days of the date of filing an application for a Certificate of Registration, such Certificate will not be issued unless the applicant shall have submitted written evidence of renewal or extension of said policy or liability bond for the period of time during which migrant workers will be transported. In the event that a policy or liability bond shall expire on a date which exceeds 30 days from the date of application for a Certificate of Registration, proof of renewal or extension of a policy or of a liability bond must be submitted promptly to the Regional Administrator who has issued the Certificate of Registration. The requirements of this paragraph do not excuse compliance with the provisions hereinafter set forth in § 40.11.

(f) Before any person may transport migrant workers within the meaning of the Act, he shall submit evidence satisfactory to the Regional Administrator that he is in compliance with the rules and regulations promulgated by the Interstate Commerce Commission that are applicable to his activities and operations in interstate commerce.

(g) The holder of a valid Certificate of Registration may request the renewal of his Certificate of Registration by executing and filing with a local office of the Employment Service of the various States or any office designated by the Governor of a State pursuant to section 40.4 the following:. (1) An application which shall set forth the information required thereon; (2) proof of insurance coverage as required in paragraph (c) (1) of this section or proof of financial responsibility as required in paragraph (c) (2) of this section; (3) upon request, a completed Form FD–258 Fingerprint Card; and (4) upon request, evidence of compliance with applicable rules and regulations promulgated by the Interstate Commerce Commission.

(h) If a Certificate of Registration is lost or destroyed, a duplicate Certificate of Registration may be obtained by submission to any Regional Office of the Bureau of Employment Security of a written statement explaining its loss or destruction, indicating where the original application was filed and requesting that a duplicate be issued.

3. Section 40.5 is amended to read as follows:

§ 40.5 Corporations, partnerships, associations, and other organizations.

Any corporation, partnership, association, or other organization which is a farm labor contractor within the meaning of the Act must obtain a Certificate of Registration. If any officer, director, partner, or member of a corporation, partnership, association, or other organization, engages in any of the covered farm labor contracting activities as a full-time or regular employee of such business organization, he must comply with the requirements for obtaining a Farm Labor Contractor Employee Identification Card.

4. Section 40.6 is amended to read as follows:

§ 40.6 Farm Labor Contractor Employee Identification Cards, Applications.

(a) Any person who intends to be employed as a full-time or regular employee in any of the covered farm labor contracting activities by a farm labor contractor who is a holder of a valid Certificate of Registration must obtain a Farm Labor Contractor Employee Identification Card. This can be obtained by submitting Form ES–412, Application for Farm Labor Contractor Employee Identification Card, which shall be subscribed and sworn to by the applicant. The applicant shall submit a completed Form FD–258, Fingerprint Card. These forms are available at any local office of the Employment Service of the various States or any office designated by the Governor of the State pursuant to section 40.4.

(b) An application for a Farm Labor Contractor Employee Identification Card shall be acknowledged by the Regional Administrator. Until a determination is made upon the application, such acknowledgment shall authorize the applicant to engage in any of the covered activities of a farm labor contractor, as defined in the Act, in behalf of any holder of a valid Certificate of Registration. While engaging in such activities, the employee must have in his possession either the letter of acknowledgment, which shall not be effective for more than 30 days, or a Farm Labor Contractor Employee Identification Card where such has been issued. Such employee shall not be engaged as a driver of a bus or truck for transportation of migrant workers in connection with the business, activities, or operations of a farm labor contractor subject to the Act, unless he shall comply with rules and regulations promulgated by the Interstate Commerce Commission that are applicable to his activities and operations in interstate commerce.

(c) If a Farm Labor Contractor Employee Identification Card is lost or destroyed, a duplicate Farm Labor Contractor Employee Identification Card may be obtained by submitting to any Regional Office of the Bureau of Employment Security a written statement explaining its loss or destruction, indicating where the original application was filed, and requesting that a duplicate be issued.

(d) The Farm Labor Contractor Employee Identification Card authorizes the employee to engage in activities as a farm labor contractor within the meaning of the Act in behalf of any holder of a valid Certificate of Registration.

(e) A holder of a valid Farm Labor Contractor Employee Identification Card may request renewal of such card by executing and filing at a local office of the Employment Service of the various States or to any office designated by the Governor of a State pursuant to section 40.4 the following: (1) An application for renewal; (2) upon request, a Form FD-258, Fingerprint Card; and (3) upon request, a Form ES-415, Doctor's Certificate.

5. Paragraphs (a), (b), and (c) (9) and (15) of § 40.10 are amended to read as follows:

§ 40.10 Terms of Certificates of Registration, other conditions and obligations.

(a) Certificates of Registration and Farm Labor Contractor Employee Identification Cards shall expire on each December 31. In any case in which an application for renewal of a valid Certificate of Registration submitted in accordance with the requirements of § 40.4 or employee identification card submitted in accordance with the requirements of § 40.6 has been made on or before November 30 of the year preceding the year for which renewal is sought, the authority to operate as a farm labor contractor or employee of a certificate holder shall not expire until the application shall have been finally determined by the Administrator.

(b) [Revoked]

(c) Certificates of Registration and Farm Labor Contractor Employee Identification Cards may be revoked or suspended, or issuance or renewal thereof refused, if the applicant or registrant:

* * * * *

(9) Knowingly employs or continues to employ any person, to whom subsection (b) of section 4 of the Act applies, who has taken any action, except for that listed in subparagraph (15) of this paragraph, which could be used by the Administrator to refuse to issue a Certificate of Registration or a Farm Labor Contractor Employee Identification Card.

* * * * *

(15) Has failed to obtain or maintain in effect, or, has had canceled or terminated, any insurance policy or liability bond required by the Act and this part and cannot demonstrate financial responsibility acceptable to the Secretary or his representative.

* * * * *

6. Section 40.11 is amended to read as follows:

§ 40.11 Cancellation of insurance, review of financial responsibility, change of ownership.

(a) Any insurance policy or liability bond required by the Act or this part shall provide that it shall not be canceled, rescinded, or suspended, nor become void for any reason whatsoever during such period in which the insurance or liability bond is required by the Act to be effective, except by the expiration of the term for which it is written, or until the company or the named insured, in the case of an insurance policy, or the "surety" or the "principal," in the case of a liability bond, shall have first given thirty (30) days' notice in writing by registered mail to the Director of the Office of Farm Labor Service, Bureau of Employment Security, U.S. Department of Labor, Washington, D.C., said thirty (30) days' notice to commence to run from the date notice is actually received.

(b) Any change in the membership or officers of a holder of a valid Certificate of Registration from that most recently reported shall within twenty (20) days of the change be reported in writing by registered mail to the Regional Administrator who issued the Certificate of Registration.

§ 40.27 [Revoked]

7. Section 40.27 is revoked.

(Sec. 14, 78 Stat. 924; 7 U.S.C. 2053)

[F.R. Doc. 66-12590; Filed, Nov. 21, 1966; 8:47 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter V—Office of Foreign Assets Control, Department of the Treasury

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Cassia From Indonesia and Sabah, Malaysia

1. A definition of cassia subject to § 500.204(a)(2) is being added to the list of definitions in the Appendix. The definition reads as follows:

(30) Cassia includes all species of the genus cinnamomum except cinnamomum zeylanicum.

2. The Office of Foreign Assets Control has determined to its satisfaction that cassia from Indonesia and from Sabah, Malaysia, subject to § 500.204(a)(2) of the regulations, can be reliably determined by physical examination not to be of Communist Chinese, North Korean, or North Viet-Namese origin. Licenses to import this commodity will henceforth be issued subject to physical examination at the time of entry. Accordingly, section (105) of the Appendix to § 500.204 is hereby amended by the addition of the following commodity: Cassia from Indonesia and Sabah, Malaysia.

The above ruling does not affect cassia imported directly from Indonesia which is specifically exempt from § 500.204 (a)(2).

[SEAL] MARGARET W. SCHWARTZ, *Director, Office of Foreign Assets Control.*

[F.R. Doc. 66-12601; Filed, Nov. 21, 1966; 8:48 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 2—DELEGATIONS OF AUTHORITY

Delegation of Authority To Provide Relief on Account of Administrative Error

In Part 2, § 2.7 is added to read as follows:

§ 2.7 Delegation of authority to provide relief on account of administrative error.

(a) Section 210(c)(2), title 38, United States Code, as added by section 301, Public Law 89-785, provides that if the Administrator determines that benefits administered by the Veterans Administration have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, he is authorized to provide such relief on account of such error as he determines equitable, including the payment of moneys, to any person whom he determines equitably entitled thereto.

(b) The authority to grant the equitable relief, referred to in paragraph (a) of this section, has not been delegated and is reserved to the Administrator. Recommendation for the correction of administrative error and for appropriate equitable relief therefrom will be submitted to the Administrator, through the General Counsel, by the department head or staff official concerned.

This VA Regulation is effective November 7, 1966.

By direction of the Administrator.

Approved: November 14, 1966.

[SEAL] CYRIL F. BRICKFIELD, *Deputy Administrator.*

[F.R. Doc. 66-12604; Filed, Nov. 21, 1966; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Flint Hills National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

KANSAS

FLINT HILLS NATIONAL WILDLIFE REFUGE

The public hunting of squirrels, cottontail rabbits and bobwhite quail on the

Flint Hills National Wildlife Refuge, Kans., is permitted from November 21, 1966, through September 1, 1967, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 2,906 acres, is delineated on maps available at refuge headquarters, Burlington, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of squirrels, cottontail rabbits, and bobwhite quail subject to the following special conditions:

(1) The use of rifles is prohibited on the refuge.

(2) Vehicle access shall be restricted to designated parking areas and existing roads.

(3) Dogs—Not to exceed two per hunter may be used only to retrieve wounded or dead squirrels, cottontail rabbits and bobwhite quail.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 1, 1967.

JOHN C. GATLIN,
Regional Director,
Albuquerque, N. Mex.

NOVEMBER 15, 1966.

[F.R. Doc. 66-12586; Filed, Nov. 21, 1966; 8:46 a.m.]

PART 32—HUNTING

Flint Hills National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

KANSAS

FLINT HILLS NATIONAL WILDLIFE REFUGE

Public hunting of deer with bow and arrows on the Flint Hills National Wildlife Refuge, Kans., is permitted from November 21 through December 9, 1966, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 2,906 acres, is delineated on maps available at refuge headquarters, Burlington, Kans., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special condition:

(1) Vehicle access shall be restricted to designated parking areas and existing roads.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 9, 1966.

JOHN C. GATLIN,
Regional Director,
Albuquerque, N. Mex.

NOVEMBER 15, 1966.

[F.R. Doc. 66-12585; Filed, Nov. 21, 1966; 8:46 a.m.]

PART 33—SPORT FISHING

Crescent Lake and North Platte National Wildlife Refuges, Nebr.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NEBRASKA

CRESCENT LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Crescent Lake National Wildlife Refuge, Nebr., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 1,330 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through September 30, 1967, inclusive.

(2) Boats, without motors, may be used for fishing.

(3) No person shall use minnows, fish, or parts thereof, for bait, nor have in possession any minnows or seine or net for capturing minnows. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 30, 1967.

NORTH PLATTE NATIONAL WILDLIFE REFUGE

Sport fishing on the North Platte National Wildlife Refuge, Nebr., is permitted only on the areas designated by signs as open to fishing. This open area, comprising 3,300 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from January 1 through September 30, 1967, inclusive.

(2) Boats, motorboats and other floating craft may be used.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 30, 1967.

JOHN E. WILBRECHT,
Refuge Manager, Crescent Lake National Wildlife Refuge, Ellsworth, Nebr.

NOVEMBER 14, 1966.

[F.R. Doc. 66-12587; Filed, Nov. 21, 1966; 8:47 a.m.]

PART 33—SPORT FISHING

Necedah National Wildlife Refuge, Wis.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Necedah National Wildlife Refuge, Wis., an area comprising approximately 10 percent of the total water area of this refuge is permitted only on the areas designated by signs as open to fishing. The open area is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1006 West Lake Street, Minneapolis, Minn. 55408. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Open season: Daylight hours December 15, 1966, through March 15, 1967.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 15, 1967.

EDWARD J. COLLINS,
Refuge Manager, Necedah National Wildlife Refuge, Necedah, Wis.

NOVEMBER 15, 1966.

[F.R. Doc. 66-12588; Filed, Nov. 21, 1966; 8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1041]

[Docket No. AO-72-A29]

MILK IN NORTHWESTERN OHIO MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Stony Ridge, Ohio, on July 6 and 7, 1966, pursuant to notice thereof issued on June 13, 1966 (31 F.R. 8496).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Associate Administrator on October 6, 1966 (31 F.R. 13136; F.R. Doc. 66-11050) filed with the Hearing Clerk, U.S. Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings, and conclusions, rulings, and general findings of the recommended decision (31 F.R. 13136; F.R. Doc. 66-11050) are hereby approved and adopted and are set forth in full herein subject to the following modifications:

1. In the "marketing area" discussion (Issue No. 1), the first sentence of the ninth paragraph is revised.

2. The 1st, 5th, 6th, and 10th paragraphs of the discussion on the pricing of diverted milk (Issue No. 3), are revised and the seventh paragraph is deleted.

3. In the discussion relating to the definition of "route disposition" (Issue No. 4), the second sentence of the first paragraph and the last paragraph are revised.

4. In the Class I price discussion (Issue No. 6), the seventh paragraph is revised and a new paragraph is added immediately thereafter.

5. In the discussion on location differentials (Issue No. 7), the 15th paragraph and the 4th sentence of the 17th paragraph are revised and a new paragraph is added immediately following the 19th paragraph.

The material issues on the record of the hearing relate to:

(1) Expansion of the marketing area.

(2) Requirements for pool participation.

(3) Pricing diverted milk.

(4) The "route disposition" definition.

(5) The "fluid milk product" definition.

(6) The level and seasonality of the Class I price.

(7) The application of location differentials.

(8) Time and method of reporting receipts and utilization of milk and of paying producers.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

(1) The Northwestern Ohio marketing area should not be expanded at this time. The proposal to include in the marketing area the Ohio counties of Erie, Huron, and Ottawa, and the unregulated portion of Sandusky County therefore is denied.

The proposal to expand the marketing area was submitted by the Northwestern Cooperative Sales Association, a cooperative representing about 85 percent of the producers in the market. It was supported also by the principal cooperative in the Northeastern Ohio market and a Northwestern Ohio regulated handler. The nine unregulated handlers distributing milk in the four-county area and their approximately 100 dairy farmer suppliers opposed expansion.

The present estimated population of the proposed area is about 220,000. Because of its proximity to Lake Erie, there is a substantial population increase during the summer tourist season of June, July, and August. Fluid milk is distributed in the area by regulated handlers in the Columbus, Northwestern Ohio, and Northeastern Ohio Federal order markets and by the nine unregulated handlers, seven of which have their plants located in such counties.

The area in question has been proposed for inclusion in a Federal order on previous occasions. As late as 1964, when the North Central Ohio and Toledo orders were merged, the four counties were proposed for regulation. Official notice is taken of the Under Secretary's decision of November 13, 1964 (29 F.R. 15416) in this regard. The Under Secretary found in the 1964 decision that the unregulated territory in the four counties did not constitute a primary distribution area for Northwestern Ohio handlers and, hence, should not be included in the marketing area at that time.

The situation has not changed appreciably. The primary distributors in the four counties still are the unregulated handlers. While Northwestern Ohio handlers are the principal regulated persons doing business in these counties, their distribution is less than one-third of the total.

Proponents and opponents of the marketing area expansion both presented results of separate surveys with respect to sales in the proposed area by regulated and unregulated handlers. While there were admitted difficulties in determining actual sales volumes, the survey results were substantially in agreement. It was shown that all regulated handlers (including those regulated under the Columbus and Northwestern Ohio orders) distribute between 40 and 45 percent of the total fluid milk sales in the four counties and the unregulated handlers distribute between 55 and 60 percent of such sales.

In support of their proposal, producers contended that unregulated handlers have a competitive advantage over regulated handlers both in the procurement of milk supplies and in the sale of milk in the proposed area. They pointed out that unregulated handlers purchase milk on a "flat price" basis without regard to the utilization in their plants.

Although specific data were not presented at the hearing, producers claimed that the unregulated handlers are able to maintain a high Class I utilization aided by the purchase of supplemental milk supplies from regulated handlers during the summer tourist season when supplies from their regular dairy farmers are insufficient, sometimes even less than their Class I sales. The fact of a high Class I utilization paid for on a flat price basis, it was stated, gives them a competitive advantage over regulated handlers in the procurement of milk in a common supply area and results in the Northwestern Ohio market carrying the reserve supply for such counties.

It is not clear from this record that unregulated handlers do, in fact, have any substantial advantage in the procurement and sale of milk in the four-county area and, if so, whether this has had adverse affect upon the orderly marketing of milk by Northwestern Ohio producers. While certain of the unregulated handlers do rely on regulated markets for supplemental milk supplies during the tourist season, it is evident that at least some do not. It was brought out also that most of them have some uses in their plants equivalent to Class II milk under the order and that it is not unusual for them to have considerable quantities of surplus milk.

A representative of dairy farmers delivering to plants in the proposed area testified that at least some of the unregulated handlers do not rely heavily on regulated markets for the area's increased fluid needs during the tourist season. He stated that local farmers have attempted over the years to tailor their production as closely as possible to the needs of their market. Dairy farmers have been encouraged to increase production in the early summer months rather than during the normally short production months in the fall of the year as customary in most other markets. He indicated that they have been successful in providing much of increased

milk supply from their own farm resources for the tourist season needs.

Regulated handlers have maintained their proportion of sales in the four-county area, and have had little difficulty in procuring milk supplies in competition with the unregulated handlers. This makes difficult the conclusion that marketing conditions for Northwestern Ohio producers have been adversely affected by the competitive situation in these counties. It is noteworthy also that handlers under the Northeastern Ohio and Columbus orders, who purchase Class I milk at somewhat higher Class I prices than Northwestern Ohio handlers, have continued to compete in these counties.

It may not be concluded from the record that the four counties are part of the primary distribution area of Northwestern Ohio regulated handlers. Class I sales of Northwestern Ohio handlers in the proposed area represent only about 4 percent of their total Class 1 distribution and, as previously stated, less than one-third of the total sales in such area. The unregulated handlers involved distribute no fluid milk products in the present marketing area but compete with regulated handlers only in the unregulated territory. Marketing conditions do not justify the inclusion of this territory in the marketing area at this time.

(2) The pooling requirements for distributing plants should be modified.

The principal cooperative association proposed that one of the standards for pooling a distributing plant be modified. The proposal would allow such a plant to retain pool status even though it distributed, during the month, less than 50 percent of its Grade A milk receipts on routes, provided it had met such requirement in 5 of the 6 preceding months. The proposal was supported by handlers.

Proponents pointed out that under the present provisions it is possible for a distributing plant to lose its pool status, however unintentionally, if it drops even slightly below the minimum 50 percent route distribution percentage requirement for the month. Several handlers qualify in some months by only a very small amount over the present minimum requirement. In this market it is not unusual for large wholesale accounts to be switched from one handler to another on short notice which can cause a handler to fall below the 50 percent requirement. At least once in the last 18 months a handler has found himself in the position of inadvertently failing by a small margin to meet such requirement.

Producers further requested that the order contain a provision requiring the market administrator to notify any cooperative associations with milk delivered to a plant of the failure of the plant to meet the 50 percent requirement even though such plant is continued in the pool as proposed. It was stated that such a requirement would allow a cooperative sufficient time to make other arrangements for its member milk supply in the event the plant subsequently lost its pool status.

The 50 percent route distribution requirement is a reasonable standard for differentiating between plants that are primarily engaged in the distribution of fluid milk and those that are primarily manufacturing plants but such requirement need not be so rigid as to impede orderly marketing. The additional requirement that to be pooled a distributing plant must also sell at least 15 percent of its dairy farmer receipts as Class I milk on routes in the marketing area is a reasonable basis for establishing its association with this market and there is no indication in the record that this requirement should be changed.

Failure of a distributing plant to meet the prescribed pooling standards could have serious consequences for producers as well as for any supply plant shipping milk to such distributing plant. In view of the high possibility that failure to meet the 50 percent route disposition requirement for a given month can be inadvertent, the proposed modification is appropriate.

Since the revised provision will permit a distributing plant to continue its pool status for up to 2 consecutive months without meeting the 50 percent route distribution requirement, interested persons could be unaware of the fact that the plant was in danger of losing its pool status. In this situation the corollary proposal that whenever a plant drops below the 50 percent requirement the market administrator shall make it known publicly should be adopted also. The information thus would be available to any cooperative with members delivering to such plant as well as to unaffiliated producers and supply plant operators shipping milk to such plant.

(3) The order should be amended to price producer milk diverted from a pool plant to a plant located more than 150 miles from Toledo, Ohio, at the location of the plant to which it is diverted. This modifies the recommended decision which proposed, as to nonpool plants, that all producer milk diverted thereto would be priced at the location of the nonpool plant, regardless of its distance from Toledo. Diversions to plants, pool or nonpool, within 150 miles of Toledo would be priced at the pool plant from which diverted, except that a limit should be provided on diversions between pool plants in order to insure that such milk will be priced at the plant at which it is generally received.

The present order prices all producer milk diverted to nonpool plants at the location of the pool plant from which it is diverted. Producers contend that this pricing arrangement could enable producers distant from the market to enhance their returns unduly at the expense of nearby producers.

The marketing area uniform price establishes the value of milk delivered f.o.b. plants in the marketing area. Lower prices, adjusted to reflect the cost of transporting milk to market from various locations, apply at outlying plants. Thus, when a producer's milk is delivered to an outlying pool plant and the full cost of transportation to the marketing area is not incurred, the uniform price to such producer is reduced by a location differential.

Similarly, when the milk of a distant producer is diverted to an outlying nonpool plant, full transportation cost to market is not incurred and a location price should apply to such milk.

With respect to milk so diverted there ordinarily is a significant saving in the farm-to-plant haul as compared to delivering the milk to a marketing area plant. To price such milk at the plant from which diverted creates undue incentive to attach producer milk to the Northwestern Ohio market for the sole purpose of receiving the marketing area blended price without necessarily shipping a substantial proportion of the milk to the market for fluid uses. Thus, the blend price could be reduced by the attachment of milk receiving a marketing area price but not readily available for fluid purposes in the market. Accordingly, such incentive should be eliminated by providing that producer milk diverted from a pool plant to a plant at some distance from the market shall receive a price for the location of the plant to which it is physically delivered.

The principal cooperative excepted to the failure of the recommended decision to provide that diversions to plants located within 150 miles of Toledo be priced at the location of the pool plant from which diverted. In support of its position the association referred to the fact that under current market practice the cooperative diverts producer milk to nonpool plants within 150 miles of Toledo on a regular basis in order to accommodate the day-to-day fluctuations in the bottling requirements of regulated handlers. This is done at a hauling cost equal to or exceeding that incurred when milk is delivered to bottling plants.

The cooperative stated that changing the pricing point on such diversions, as proposed in the recommended decision, would create iniquities among producers, thereby making it difficult to continue this essential balancing function and would add to the administrative problems in accounting to its producers whenever more than one price is applicable to their deliveries during the month. There are ample surplus disposal facilities within a 150-mile radius from Toledo.

In consideration of hauling costs in this market, the incentive to associate milk with a nearby plant and then divert to manufacturing facilities is reduced substantially when the manufacturing facilities are located within 150 miles of Toledo. The possibility of abuse is further reduced since the cooperative assumes responsibility for the diversion of a large proportion of all milk associated with nearby plants. In these circumstances it is concluded that the cooperative's proposal should be adopted in order that the market balancing function may be facilitated.

Presently, producer milk diverted from one pool plant to another is priced at the second plant. The major association requested the privilege of diverting milk between pool plants with the milk priced at the plant from which it is diverted.

The association has practiced the diversion of milk within the market to achieve the most advantageous use of available milk. However, under the present order when the milk must be moved to a plant in a lower-priced zone, the producer whose milk is moved receives the lower price while producers as a whole benefit from the action. The producers involved understandably object to the lower price received.

While the problem is greatly reduced by the elimination of location differentials within the marketing area, there may be occasions when the proposed change in point of pricing will enhance the ability of the cooperative to channel milk from one handler to another within the market as handler bottling requirements change. Marketing efficiency should be improved. It also will simplify the accounting with respect to such diverted milk. Thus, diversions between pool plants within 150 miles of Toledo also should be priced at the plant from which diverted.

A limit should be provided, however, on the number of days that a producer's deliveries may be diverted to another pool plant and still receive the price applicable at the plant from which diverted. If location differentials are to carry out their function of equating the order prices at the various plant locations in the market, there must be provision for recognizing a specific plant location to which the milk is delivered for the purpose of applying order prices. This may be accomplished by pricing milk diverted between pool plants at the location of the plant from which diverted if at least 15 days' milk production of the producer is physically received at such plant or at other plants in the same or a higher price zone as the diverting plant. If more than 15 days' production is diverted to a plant in a lower price zone than that of the diverting plant then the diverted milk should be priced at the plant(s) where physically received.

(4) The definition of "route disposition" should be clarified. As the definition is now phrased it has not been entirely clear to the trade whether route disposition is intended to include Class I milk that moves from a processing and packaging plant through an intermediate distribution point en route to retail or wholesale outlets. Also, clarification is needed as to whether route disposition is to be credited to the handler processing and packaging the Class I milk in cases where the milk is custom-packaged for another person. Also, some doubt was raised as to whether route disposition includes milk that is delivered to a retail or wholesale customer at a plant's loading dock.

It is intended that the definition in this order include Class I milk that moves through a distribution point en route to retail or wholesale outlets but not until it is, in fact, disposed of to such outlets. For determining route disposition the distribution point is, in effect, an "extension" of the processing and packaging plant. Consequently, delivery to the distribution point in itself does not constitute route disposition. Delivery from the distribution point to a retail or wholesale outlet does constitute route disposition and such disposition is attributable to the processing plant of origin.

The present definition is intended to include Class I milk which is disposed of to retail and wholesale customers at the dock of the handler's processing plant. Furthermore, the present definition is intended to include as a disposition from the processing and packaging plant milk which is custom-packaged for another person provided such milk is not then moved to another milk plant. In view of the questions raised at the hearing, the language has been modified in order to eliminate any uncertainty as to the manner of coverage of these types of operations.

(5) The "fluid milk product" definition should not be changed except for clarification. A regulated handler proposed an amendment which would exclude from Class I any milk product containing more than 6 percent butterfat, concentrated milk, all cultured products except buttermilk, and eggnog. With the exception of sour cream mixtures which are not labeled Grade A, these products presently are classified as Class I. The amendment was opposed by producers.

Proponent's testimony was based primarily on the competitive difficulties arising from the introduction in the market of nondairy product substitutes such as imitation cream and imitation sour cream. It was noted also that some of the nearby Federal orders provide Class II pricing for certain specialty products which are priced as Class I in the Northwestern Ohio market.

The order classifies as Class I all fluid milk products which require the use of Grade A milk. It also fixes the class prices at levels designed to assure an adequate supply of milk for use in such products. Milk which is in excess of the market's fluid needs generally is processed into manufactured dairy products such as ice cream, cottage cheese, butter, and nonfat dry milk. The latter uses of producer milk are designated Class II and are priced at the level of manufacturing grade milk since all manufactured milk products generally compete in a common market whether made from Grade A milk or ungraded milk.

The products included in Class I are those that in this market must be made from milk meeting Grade A inspection requirements. Applicable health regulations require that such products sold in the Northwestern Ohio marketing area be labeled Grade A. Consequently, they continue to require a regular supply of Grade A milk. In this respect such products are quite different from butter or other Class II products which may be made from manufacturing grade milk.

To reduce the price for fluid milk products simply to allow handlers to compete more effectively with nondairy products would fail to recognize the value of the Grade A milk so used. Permitting Grade A milk to be priced at the Class II level would add to the burden on fluid milk consumers of maintaining an adequate milk supply for fluid requirements.

A question was raised at the hearing concerning the classification of milk used in the production of yogurt. In this market cultured sour cream mixtures which are not labeled Grade A are classified and priced as Class II. Yogurt which does not carry a Grade A label should be included in the same category as cultured sour cream mixtures and therefore priced at the Class II price level.

(6) The Class I price level should not be increased. The Class I differentials should be modified, however, to compensate for a change in the application of location differentials. This change is discussed in conjunction with the consideration of location differentials.

The principal cooperative in the market proposed to retain seasonal Class I differentials but at higher levels. They proposed Class I differentials of $1.73 for August through March and $1.50 for April through July, an average increase of about 40 cents over present differentials. The cooperative contended that these amounts are necessary to halt the recent decline in production in the market and to insure an adequate supply of milk for area consumers.

The cooperative proposed also to retain the present tie to the Northeastern Ohio order Class I price on the basis that there has been insufficient experience with the relatively new order from which to develop a supply-demand mechanism based on local production and utilization figures.

A regulated handler with plants in both Toledo and Mansfield proposed a year-round Class I differential of $1.25. His purpose was to improve Class I price alignment with competing markets which have flat Class I differentials. He further proposed a supply-demand adjustor based on production and Class I utilization figures for the Northwestern Ohio market.

A regulated handler with a plant at Marion, Ohio, also supported a flat Class I differential for the purpose of improving Class I price alignment with the Columbus market, pointing out that he sells a high proportion of his milk in competition with Columbus handlers.

In support of an increase in the Class I price the cooperative stated that milk supplies have tightened significantly in the market in recent months. For the first 6 months of 1966 producer receipts declined an average 5.8 percent from this period a year earlier. During the same 6-month period Class I sales increased an average of 1.7 percent from 1965. Because of these factors, the percentage of producer milk used in Class I averaged 5.6 percent higher for the first 6 months of 1966 over the comparable period in 1965.[1]

The fact of shorter supplies in Federal order markets was taken into account,

[1] The month of May 1966 was the latest month for which complete statistical information was available at the hearing. In order to complete the analysis through the first 6 months of 1966, official notice is taken of the price statistics of the market administrator for June 1966.

however, in the increase in prices which became effective July 5, 1966, in all Federal order markets. The amendment to the Northwestern Ohio order placed a $4 floor under the basic formula price through March 1967. It also increased the July 1966 Class I differential 22 cents. The increases resulting from these changes were made to encourage the production of an adequate supply of milk for the market. The proposed price increase was denied in the recommended decision.

Producers excepted to the failure of the recommended decision to provide for the proposed increase. In this regard it may be noted that while the record of this hearing does not support an increase in Class I price, the Department, since issuance of the recommended decision, has called a separate hearing on this and other Federal orders to consider appropriate levels of Class I prices. Changes in marketing conditions in this market since the hearing on which this decision is based were considered at the more recent hearing.

The proposal of a regulated handler that a supply-demand adjustor be devised using Northwestern Ohio production and Class I sales figures is denied. Experience under the merged order has not been sufficient to permit development of such a mechanism with any assurance of satisfactory operation. The present order has been in effect only since January 1, 1965, when it was formed by the merger of the Toledo and North Central Ohio orders. The intervening time period has not been sufficient to reflect typical production and Class I sales patterns in the market. For example, sales data were affected by the milk strike which occurred in May and June of 1965 depressing Class I utilization significantly during that 2-month period.

Moreover, several major revisions, including changes in the marketing area, pricing and pooling provisions were made when the orders were merged. The pooling change involved substituting a marketwide pooling plan for the handler-pooling provisions of the previous orders. Some additional supplies have been attracted to the market under the new order. A supply plant at Defiance, Ohio, not associated with either of the previous orders, pooled under the new order in 1965.

The present tie to the Northeastern Ohio supply-demand adjustor provides a basis for varying the Class I price in this market in response to changes in the regional supply and demand situation. In these circumstances it would be appropriate to provide additional experience with the new provisions, and in particular with marketwide pooling, before a supply-demand mechanism based on Northwestern Ohio market figures alone is developed.

An amendment effective July 5, 1966, extended the Class I price differentials through March 1967, the same period for which a basic formula "floor" price was established in this and other Federal milk orders. In view of the consideration given at this hearing to the longer-term aspects of Class I pricing in the Northwestern Ohio market, it is now appropriate to establish the revised Class I price differentials from their effective date through March 1968. Interested parties then would have the opportunity to review the pricing provisions at a public hearing on the basis of market statistics covering a period of 3 years under the consolidated order.

The proposal for a flat Class I price differential should not be adopted at this time.

While some handlers are concerned with competition from markets where flat differentials are applicable year-round, there is supply competition with the Northeastern Ohio market where seasonably variable Class I pricing is used.

At the present time milk production in the Northwestern Ohio market is not highly seasonal. Average daily production in the market in 1965 ranged from a high of 1,041 pounds in May to a low of 899 pounds in July, about a 16 percent change. However, producers testified that abandoning seasonal Class I pricing without an appropriate substitute method of encouraging continued level production could change the seasonal production pattern and cause other marketing problems for producers and handlers.

In all other markets competing for supply there is some type of seasonal production incentive plan in operation. Instituting a flat Class I price differential in Northwestern Ohio without a method of varying producer returns seasonally could result in uniform prices in Northwestern Ohio being unduly out of line with uniform prices in nearby markets during some part of each year. The evidence in this record does not support the adoption of any alternate plan for adjusting blend prices seasonally.

(7) a. The location adjustment provisions should be modified to establish identical price levels in the first five zones where location adjustments from zero up to 9 cents now apply. To accomplish the change in the location differential rates without changing the average Class I price for the market, the stated Class I price differentials (to apply throughout the marketing area) should be reduced 4 cents (from $1.36 to $1.32 in August through March and from $1.13 to $1.09 in April through July).

The principal cooperative proposed to eliminate all location adjustments for plants located within the marketing area. As part of this proposal, the cooperative would eliminate the city of Napoleon as a basing point for computing location adjustments to apply to plants located outside the marketing area.

They gave two primary reasons for eliminating location adjustments within the marketing area. First, it would facilitate the shifting of milk from plants in one pricing zone to plants in other zones to meet handlers' demands for bottling milk. They stated that it has been difficult to move milk from plants in the higher-priced zones to those in lower-priced zones within the marketing area on a regular basis because the producers affected have been reluctant to accept the resulting lower net return for their milk. Also, it would provide similar prices to handlers who compete throughout the marketing area for bottled milk sales.

A Lima, Ohio, handler opposed changes in the location adjustment provisions. He contended that the present zone location adjustments are necessary to insure that an adequate supply of milk is shipped to handlers in the northern and eastern portions of the market. He said that his plant, which is located in the $—0.09 zone, has been able to obtain an adequate supply of milk under the present provisions.

The present location adjustment provisions divide the marketing area into five zones. The location adjustments applicable to plants in principal cities within the market are as follows: $0.00 for Mansfield, $—0.03 for Bucyrus, $—0.04 for Toledo and Marion, $—0.07 for Findlay and $—0.09 for Lima.

The farms of most producers who regularly supply handlers in each of the major cities in the market are located, however, at relatively short distances from the plant either in the same county as the plant or in an adjacent county. The distances to market outlets for most producers do not differ greatly. Hauling rates on most of the producer milk direct-shipped to the principal cities thus are very similar.

As plants expand their area of distribution, there is an increasing amount of route competition that has little relationship with the pattern of location adjustments. The routes of handlers in the several pricing zones now overlap extensively throughout the marketing area. Toledo handlers, for example, distribute milk in the Lima and Findlay area in competition with handlers who purchase Class I milk 3 to 5 cents per hundredweight less than the price applicable at Toledo. With the passage of uniform health regulations in the various cities in the marketing area on July 1, 1966, this interhandler competition may be expected to intensify.

The problem of the cooperative in assigning milk among handlers in accordance with their needs has been most acute in the Lima area where the $—0.09 location adjustment prevails. Last fall when milk supplies shortened, certain Lima handlers needed additional milk. The cooperative, which allocates some 85 percent of the milk supplies in the market, moved to assign additional producers to these handlers on a temporary basis. However, the producers to be shifted, who normally supply plants in higher-priced zones, were reluctant to accept the lower net return from shipping milk to the Lima area.

Also, Lima handlers have had some difficulty in holding their regular supplies of producer milk in competition with Toledo handlers. Lima and Toledo handlers compete for supplies in the intervening counties. Their procurement areas overlap, for example, in Hancock, Putnam and Henry Counties which lie between the two cities.

The Toledo blend price is 5 cents higher than at Lima. Yet in much of this intervening area, hauling costs are very similar, generally about 30 cents per hundredweight, whether the milk is hauled to Toledo or Lima, making the net return to producers shipping to Lima plants about 5 cents lower. The added amount afforded them under the location adjustment schedule has enabled Toledo handlers to solicit producers from the Lima handlers.

The milk procurement problems of the handlers in the lower-priced zones may be remedied by establishing the same blend price for the five zones within the market. This would tend to equate net returns to all producers who supply handlers in the major cities in the market. There would be little price incentive for the individual producer to prefer an outlet in one city rather than another. The cooperative would be assisted in moving milk about within the market since producers would receive similar prices regardless of the destination of their milk.

Such an amendment should not make it more difficult for handlers in the present higher-priced zones to obtain adequate milk supplies. Since hauling costs throughout the market are fairly similar and available supplies of milk are quite evenly distributed throughout the counties of the marketing area, location adjustments within the marketing area should not be necessary to insure the shipment of adequate supplies of milk to any given segment of the area as compared to other segments. It is in the interest of the cooperative and the producers to see that all handlers receive sufficient milk for their Class I needs.

It was contended that there would be no incentive under the new provision for producers to ship their milk to Mansfield on the eastern edge of the market to supply any handler in that city who became short of milk. This should not create a problem since there are farm milk routes originating in the area southeast of Toledo which could be directed to this area without an increase in hauling costs to the producers involved.

The area to which similar Class I and blend prices should apply under the revised order provisions is slightly different from that proposed by producers. Producers proposed that the same prices apply to all plants in the marketing area rather than in the 18 counties included in the five price zones previously discussed, an area which does not precisely coincide with the marketing area. Under the revision similar prices will prevail throughout the 18 counties in order to preserve intramarket price alignment. At least one regulated plant and two or more partially regulated plants are located near the market but in counties which are not included in the marketing area. Prices applicable to these plants would not be appropriately aligned with those at nearby plants located inside the marketing area if the same prices did not apply in all 18 counties.

As proposed by producers, the city of Napoleon, Ohio, should be eliminated as a basing point for computing location adjustments for plants located beyond the 18-county area. Under the present order, five cities serve as basing points. They are, in addition to Napoleon, Toledo, Lima, Mansfield, and Marion.

The cities which are retained as basing points are the largest urban centers in the market. Handlers in these cities are those most likely to receive supplies of milk additional to regular producer deliveries from the farm. It is appropriate, therefore, to compute location adjustments from these points.

The latter revision will provide an appropriate location adjustment for the market's only supply plant which is located at Defiance, Ohio. Presently this plant receives a $0.03 location adjustment based on its distance from Napoleon. With this location adjustment the milk is priced only $0.03 below the Toledo level. Under the new provision, the location adjustment for this plant will be computed on the basis of its distance from Lima (the closest basing point). It will receive a location adjustment of about $0.075 which should be more in line with the cost of moving milk to the market.

The average Class I price (taking into consideration the present value of location differential adjustments within the marketing area) is approximately 4 cents per hundredweight less than the announced Class I price f.o.b. Mansfield. With a single Class I price applicable throughout the 18 counties, it is appropriate to reduce the stated Class I differentials by a like amount in order to maintain total producer returns at their same level.

The proposed Class I price f.o.b. market will be the same as the Class I price which now applies at Toledo. Since a major portion of the milk is priced at the Toledo Class I price level, the relationship of the Northwestern Ohio Class I price with Class I prices in surrounding markets will not change significantly. The change in location pricing therefore, should not disrupt intermarket price alignment.

Exception was taken to the elimination of the location differential in the Lima area. Exceptor's concern results from the fact that Fort Wayne regulated handlers distribute Class I products in the Lima area. It was stated that elimination of the location differential (which increases the Class I price at Lima 5 cents per hundredweight) upsets the historical Class I price relationship between Fort Wayne and Lima.

The average Class I price which has prevailed at Lima since the consolidation of the North Central and Toledo Ohio milk orders has been very near the comparable average Class I price under the Fort Wayne order for milk received at Fort Wayne. For the year 1965 the Lima Class I price averaged 3 cents above the f.o.b. Fort Wayne Class I price. Also based on 1965, elimination of the Lima location differential would have provided an average 8-cent difference in Class I prices. The latter difference is still substantially less, however, than a per hundredweight hauling cost from Fort Wayne to Lima computed at the order rate of 1.5 cents for each 10 miles. In this situation we may not reasonably conclude that Lima handlers will be disadvantaged with respect to competition from Fort Wayne handlers in the Lima area.

b. Provision also should be made to define a "reload point" at which a location adjustment would apply with respect to milk transferred at such point from one bulk tank truck to another in the course of movement from the farm to a milk plant.

The principal cooperative proposed a definition of "reload point" for the purpose of providing location adjustments on all bulk tank milk assembled and reloaded at outlying locations. By this means milk received at a reload point from farm tanks and assembled with other similar milk, to be shipped in larger tank trucks to pool or nonpool plants, would be treated, for pricing purposes, in a manner similar to milk received at a pool supply plant in a location differential zone.

Proponent pointed out that under recently adopted Ohio health regulations, standards have been established for installations at which such intertruck transfers of bulk tank milk may be made. These include, among other things, a covered building, cement floor, tight walls, and tank washing facilities. Health inspection of the milk will be made at the transfer point. Identification of the reload location and the operator thereof are required.

While milk is considered direct-shipped when brought into the pool distributing plant in the farm pickup tank, it was contended that the conditions of transfer make the assembly function of the reload point very similar to that provided by any receiving station or country plant.

Milk moved to the marketing area through a reload point should be priced at the location of the reload point.

Bulk tank handling methods permit delivery of milk to distributing plants at farms without receipt at an intermediate plant. Transfer of producer milk in the country from farm pickup tanks to larger tank trucks facilitates the economical handling and movement of such milk where substantial distances are involved. Such milk has a high degree of mobility and may be delivered to a plant in the marketing area or at times to other plants distantly located from the marketing area.

The function of a reload point approximates that of a supply plant in that milk is assembled at such place for movement to the market. It serves for a distributing plant an essential function that is customarily performed by a supply plant. However, facilities at a reload point do not have the permanence of a supply plant since they are only for the transfer of milk from farm pickup tank trucks to larger tank trucks. Reload operations do not have the full line of receiving facilities and holding tanks that supply plants must have. Hence, they cannot be expected to perform as a supply plant in all respects and consequently should

not be treated for all order purposes on the same basis as supply plants.

The nature of the assembly function as described and the mobility factor, however, make reloaded milk appropriately subject to location pricing in this market. Providing for the reload point, as well as the supply plant, to be the point of pricing will promote uniformity of treatment to all producers similarly situated.

Moreover, distant whole milk brought in for Class II purposes should cost the handler approximately the Class II, or manufacturing, price at the point of origin plus the cost of transporting the milk to the market for processing. This is the case with respect to milk for Class II purchased from a supply plant in a location price zone. However, since the outlying bulk tank producer currently receives the uniform price f.o.b. marketing area even when his milk is handled through a reload point, he normally pays the full hauling cost to market regardless of final use made of the milk by the handler.

The purchasing handler therefore may be provided a significant advantage on distant milk so assembled for Class II purposes as compared to the handler buying distant milk through a country supply plant for similar use. This occurs because the handler buying from a supply plant is not allowed location credit from the pool on milk for Class II use but only on such milk shipped to market and allocated to Class I under normal allocation procedures. Establishing the reload point as the point of pricing would reduce the incentive to move distant milk to market for Class II use at producer expense and promote uniformity of prices to handlers. Also, uniform prices to producers would be enhanced since milk moved through the reload point and so used would be priced at the reload point and the consequent savings on transportation as to the Class II portion of such milk would be reflected in the uniform price.

It was proposed that any reload point located on or at the premises of a pool plant should be considered as part of the operations of such plant. To reduce problems of identification and accounting any reload point located on the premises of a pool plant should be considered as part of such plant's operation. The handler operating the pool plant which receives milk through a reload point should be the responsible person under the reporting and payment provisions with respect to milk so received.

Since the purpose of defining a reload point is to provide a location adjustment on milk assembled for movement to distributing plants, the definition adopted excludes any reloading operation that takes place within the area to which the f.o.b. market price applies.

(8) a. The order should be amended to provide that a handler's regular monthly report of receipts and utilization must be postmarked no later than the 6th day of the month if mailed, or, if otherwise delivered, be actually received at the market administrator's office no later than the close of business on the 7th day of the month. The date for the announcement of the uniform price for the preceding month should be changed from the 12th to the 11th day of the current month, and payments to producers should be advanced to the 16th day of the current month. Presently the uniform price is announced by the 12th of the month and payments to producers are due by the 17th day of the month.

Producers proposed that handlers be required to submit their monthly reports of receipts and utilization to the market administrator no later than the 5th day of the month (excluding Sundays) rather than the 7th as now provided. They further proposed that the date for announcing the uniform price and the date for paying producers be moved up 2 days. Their purpose was to achieve an advance in the date producers receive payment for their milk. The proposals were opposed by handlers.

Producers understandably desire to receive full payment for their milk as early as possible. However, the process of preparing and submitting monthly reports to the market administrator and the time necessarily consumed in computing the uniform price are limiting factors in any advance in the producer payment dates.

Under the producers' proposal handlers would be required to file receipts and utilization reports 2 days earlier than is now required. Handlers testified that reporting by the 5th day of the month would be difficult, if not impossible, to comply with. This would be particularly true, they stated, when a weekend or a holiday occurs during the first 5 days of the month, as frequently happens.

The hearing disclosed that the market administrator could announce the uniform price earlier than the 12th of the month if all handlers' reports were actually received by the 7th day of the month. While there was no suggestion that handlers have been lax in meeting their reporting obligation, it nevertheless is likely that reports mailed on the 7th, as presently permissible, will not reach the market administrator's office until at least the following day, tending to cut down the time available to compute the uniform price.

Provision that handlers' reports must be postmarked no later than the 6th day of the month if mailed, or actually received by the market administrator no later than the 7th day of the month if otherwise delivered, should put little, if any, additional burden on handlers. It will assist, however, in insuring that all such reports will be in the market administrator's office on the 7th, allowing sufficient time to compute and announce the uniform price 1 day earlier. This will make it possible to move ahead by 1 day the dates for payment to producers and cooperative associations.

Corollary changes are made in other payment sections of the order so as to conform to the earlier announcement of the uniform price. Such changes include the dates for payments in and out of the producer-settlement fund and for payment of administrative and marketing service assessments.

b. The order should be amended to provide a partial payment to producers at not less than the uniform price for the preceding month minus 75 cents for milk delivered during the first 15 days of the month. The partial payment rate should also be adjusted, for the appropriate months, by the amount of the seasonal change in the Class I differential. The present order provides for a partial payment to producers at not less than the Class II price for the preceding month.

The proposal for an increase in the amounts paid to producers in the form of a partial payment was submitted by the major cooperative association. They stated that the present rate of partial payment returns to the producer a relatively low proportion of the value of the producer milk delivered during the first 15 days of the month, and results in undue delay as to a portion of the payment for such milk.

Partial payments to producers, made on or before the last day of the month, apply to milk which was delivered to handlers during the first 15 days of the month. The costs of producing such milk have been incurred by producers, and the milk has been sold by the handler, at least several days before any payment is required. While the final value of such milk is not known before the uniform price is computed, it is reasonable for the producer to expect partial payment at a rate which more nearly approaches its true value than does the Class II price. The proposed provision should contribute to the orderly marketing of producer milk by reducing financing problems for producers.

Had the proposed rate been in effect during 1965 it would have increased the partial payment 25 cents per hundredweight. For the first 6 months of 1966 it would have resulted in a 51 cents per hundredweight increase.

Certain handlers expressed concern that under a higher rate of partial payment a low utilization handler might be required to pay producers more than the classification value of the first 15 days' milk supply. They were concerned also that such an overpayment might result because of money owed the handler by the producer for the purchase of supplies and equipment.

At the partial payment rate proposed herein it would be extremely unlikely that any pool distributing plant's utilization would be such that this could occur. Based on average prices for 1965, a plant's utilization would have to be substantially below 50 percent Class I to result in a partial payment of more than the actual value of the milk at the order's class prices. In view of the order's 50 percent route distribution requirement for such plants to qualify as pool plants the proposed provision should present no difficulty in this regard. It should be noted also that at the time the partial payment is made the remainder of the month's milk supply will

have been delivered and the amount of the partial payment on the first 15 days' milk supply will fall far short of the actual value of the full month's deliveries.

Partial payment should not be required, however, in instances where the producer has discontinued shipping to a handler during the month. At the date of partial payment there could be considerable uncertainty as to the exact amount due a producer who has not shipped the full month. In the latter case it would be preferable to permit a handler to make final settlement in the form of a single payment after the uniform price for the current month is announced.

For timely computation of its producer payroll a cooperative association receiving payment from handlers on member milk needs information concerning daily and total pounds, and the average butterfat content, for each such producer prior to the date on which payment is received from handlers. Presently the order does not require handlers to submit this information before the date on which payment actually is made to the cooperative. Although cooperatives admitted no difficulty in getting this information in a timely manner, considerable difficulty could result if it were not submitted prior to the payment date.

The order should be amended to require the submission of such information in time to assure that a cooperative will be able to compute its payroll and make prompt payment to its members. While the cooperative requested that the information be submitted as early as the 7th of the month, they stated it was not needed quite that early in the month and would not object if the submission date was made the 10th. Handlers were not opposed to the latter date. It should be adopted.

Rulings on proposed findings and conclusions and motions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

During the course of the hearing counsel for a group of milk distributors not regulated by the order requested that official notice be taken of certain portions of the record of the original promulgation hearing on the Northwestern Ohio marketing order held in February 1964. Such hearing was concerned, in part, with the proposed inclusion of the four additional counties proposed for inclusion in the marketing area. Following objection, the Hearing Examiner denied official notice as to any part of the evidence of such hearing, but indicated that the request for official notice was in the record and subject to consideration by the Department.

From review of the colloquy on this matter it is concluded that the ruling of the Hearing Examiner was appropriate in the circumstances and such ruling is affirmed.

Same counsel also offered in evidence a letter containing aggregate sales figures of unregulated distributors made in the four counties proposed for inclusion in the marketing area. Following an objection, the letter was ruled inadmissible and an offer of proof concerning it was made.

The ruling of the Hearing Examiner as to the admissibility of the letter in the circumstances is affirmed.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Northwestern Ohio Marketing Area," and "Order Amending the Order Regulating the Handling of Milk in the Northwestern Ohio Marketing Area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of September 1966 is tive period for the purpose of ascertaining whether the issuance of the attached order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Northwestern Ohio marketing area, is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on November 17, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

Order[1] Amending the Order Regulating the Handling of Milk in the Northwestern Ohio Marketing Area

§ 1041.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Northwestern Ohio marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act:

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Northwestern Ohio marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Associate Administrator, on October 6, 1966, and published in the FEDERAL REGISTER on October 11, 1966 (31 F.R. 13136; F.R. Doc. 66-11050), shall be and are the terms and provisions of this order, and are set forth in full herein subject to the following revisions: §§ 1041.15 (b) and (c), 1041.18, 1041.20, and 1041.53(b) are changed.

1. Section 1041.13(a) is revised to read as follows:

§ 1041.13 Pool plant.

* * * * *

(a) A distributing plant with route disposition during the month, or in 5 of the immediately preceding 6 months, of not less than 50 percent of the total Grade A milk received at such plant from dairy farmers (excluding any such milk received by diversion from a plant at which such milk is fully subject to pricing and pooling under the terms and provisions of another order issued pursuant to the Act), pool supply plants and through reload points, and with at least 15 percent of such route disposition made within the marketing area during the month.

* * * * *

1a. In § 1041.15 paragraphs (a), (b), and (c)(3) are revised to read as follows:

§ 1041.15 Producer milk.

* * * * *

(a) Received during the month at one or more pool plants from the producer, either directly or through a reload point, or caused to be delivered from the producer's farm to a pool plant(s) by a cooperative association.

(b) (1) Subject to the conditions set forth in subparagraph (2) of this paragraph, diverted by a handler from a pool plant to another pool plant for any number of days of the month. Milk so diverted shall be deemed to be received by the diverting handler at the location of the plant from which it is diverted, if at least 15 days' production of the producer is delivered during the month to such plant or to other plants at which the same or a higher price applies and be priced at such location; otherwise milk diverted to other pool plants shall be deemed to be received at the plant to which diverted and be priced thereat.

(2) If producer milk is diverted to a pool plant more than 150 miles from the Toledo, Ohio, City Hall, by the shortest hard-surfaced highway distance so determined by the market administrator, it shall be priced at the location of the plant to which diverted.

(c) * * *

(3) Milk diverted to a nonpool plant located more than 150 miles from the Toledo, Ohio, City Hall, by the shortest hard-surfaced highway distance as determined by the market administrator, for the account of a handler operating a pool plant or for the account of a cooperative association shall be priced at the location of the nonpool plant to which diverted. Milk so diverted to a nonpool plant located within such 150-mile distance shall be priced at the location of the pool plant from which diverted.

2. Section 1041.16 is revised to read as follows:

§ 1041.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, flavored or cultured milk or skim milk, buttermilk, concentrated milk, eggnog, sweet or sour cream, and any mixture of fluid cream and milk or skim milk. Cultured sour mixtures disposed of as other than sour cream and yogurt shall be considered as fluid milk products only if disposed of under a Grade A label. The term includes these products in fluid, frozen (except cream), fortified or reconstituted form, but does not include sterilized products in hermetically sealed containers, and such products as milkshake mix, ice cream mix, and other frozen dessert mixes, aerated cream products, frozen cream, cultured sour mixtures (disposed of as other than sour cream and not disposed of under a Grade A label), pancake mixes, and evaporated or sweetened condensed milk, or skim milk in either plain or sweetened form.

3. Section 1041.18 is revised to read as follows:

§ 1041.18 Route disposition.

"Route disposition" means a delivery of Class I milk pursuant to § 1041.41(a) (including that custom-packaged for another person and disposition from a plant's dock, plant store, vendor, or vending machine) at retail or wholesale either directly or through any distribution point other than a plant.

4. A new § 1041.20 is added to read as follows:

§ 1041.20 Reload point.

"Reload point" means any location which is outside the Ohio counties specified in § 1041.53 and which is both 40 miles from the City Hall of Toledo, Ohio, and more than 15 miles from the City Halls of Mansfield, Marion, and Lima, Ohio, at which milk moved from the farm in a tank truck is transferred to another tank truck and is commingled with other such milk before entering a plant, except that reloading operations on the premises of a plant shall be considered to be part of such plant's operation.

5. In § 1041.27, paragraphs (g) and (j)(2) are revised to read as follows:

§ 1041.27 Duties.

* * * * *

(g) He shall publicly announce (by posting in a conspicuous place in his office and by such means as he deems appropriate), at his discretion and unless otherwise directed by the Secretary, the name of any handler with respect to a pool plant under § 1041.13(a) from which route disposition during the month is less than 50 percent of receipts as specified in such paragraph, and the name of any handler the value of whose fluid milk products is not included in the computation of the uniform price because of failure to make reports pursuant to §§ 1041.30 and 1041.32, or payments pursuant to §§ 1041.80, 1041.82, 1041.84, 1041.85, and 1041.86.

* * * * *

(j) * * *

(2) By the 11th day after the end of each month, the uniform price computed pursuant to § 1041.71 and the butterfat differential computed pursuant to § 1041.72.

* * * * *

6. The introductory text of § 1041.30 is revised to read as follows:

§ 1041.30 Reports of receipts and utilization.

Each handler for each of his pool plants, and a cooperative association with respect to milk for which it is the handler, shall report to the market administrator each month. If mailed, such report shall be postmarked on or before the 6th day after the end of such month; or if otherwise delivered, it must be received at the office of the market administrator on or before the 7th day after the end of such month. The report shall be in the detail and on forms prescribed by the market administrator and shall reflect the quantities of skim milk and butterfat contained in:

* * * * *

7. In § 1041.51, the introductory text and subparagraph (1) of paragraph (a) are revised to read as follows:

§ 1041.51 Class prices.

* * * * *

(a) *Class I milk price.* For the period from the effective date of this paragraph through March 1968, the monthly Class I milk price shall be the basic formula price for the preceding month, plus the sum of the amounts specified under subparagraphs (1) and (2) of this paragraph:

(1) The amount set forth below for the applicable month, subject to adjustment for location pursuant to § 1041.53:

August through March	$1.32
April through July	$1.09

* * * * *

8. Section 1041.53 is revised to read as follows:

§ 1041.53 Location adjustments to handlers.

(a) The price for Class I milk at a plant or reload point located outside the Ohio Counties of Allen, Auglaize, Crawford, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Morrow, Ottawa, Richland, Sandusky, Seneca, Wood, and Wyandot, which is both more than 40 miles from the City Hall of Toledo, Ohio, and more than 15 miles from the City Halls of Mansfield, Marion, and Lima, Ohio, shall be the price computed pursuant to § 1041.51(a) reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant or reload point is from the nearest of the City Halls of Toledo, Mansfield, Marion, or Lima, Ohio. No location adjustment shall apply, however, at a plant or reload point which is nearer to the Public Square in Cleveland, Ohio, than the distance between such Cleveland location point and the City Hall at Mansfield, Ohio.

(b) Fluid milk products received by a handler at a pool plant from another pool plant or reload point shall be assigned for Class I location adjustment credit, at the appropriate distance rate as set forth in paragraph (a) of this section, to the extent that Class I milk (exclusive of producer milk diverted as Class I milk to nonpool plants) at the transferee-plant exceeds the sum of receipts at such plant directly from producers and any Class I milk assigned to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant or reload point at which the least location adjustment would apply.

(c) For the purpose of this section and § 1041.73, the distances to be computed shall be on the basis of the shortest hard-surfaced highway distances as determined by the market administrator.

9. In § 1041.73, paragraph (a) is revised to read as follows:

§ 1041.73 Location differentials to producers and on nonpool milk.

(a) For the purposes of § 1041.80, the uniform price at a plant or a reload point may be reduced on the basis of the applicable amount or rate for the location of such plant or reload point pursuant to § 1041.53;

* * * * *

10. In § 1041.80, paragraph (a) (1) and (2) and the introductory text of paragraph (c) are revised to read as follows:

§ 1041.80 Time and method of payment.

(a) * * *

(1) On or before the last day of each month to each producer who had not discontinued shipping milk to such handler during the month, at not less than the uniform price for the preceding month minus 75 cents, adjusted by any amount that the Class I differential pursuant to § 1041.51(a) for the preceding month is greater or lesser than such differential for the current month, for the producer milk received during the first 15 days of the month:

(2) On or before the 16th day after the end of each month, at not less than the uniform price adjusted pursuant to §§ 1041.72, 1041.73, and 1041.85, less any payment made pursuant to subparagraph (1) of this paragraph, for producer milk received during such month. If by such date the handler has not received full payment from the market administrator pursuant to § 1041.83 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator; and

* * * * *

(c) In making payments for producer milk pursuant to this section, each handler shall furnish a supporting statement to each producer, or cooperative association in the case of member producers for whom payment is made pursuant to paragraph (b) of this section. Such statement shall be furnished at the time payments are made pursuant to this section, except that the information included in subparagraphs (1) and (2) of this paragraph shall be furnished a cooperative association for whom payment is made pursuant to paragraph (b) of this section on or before the 10th day after the end of the month during which the producer milk was received. The supporting statement shall be in such form that it may be retained by the recipient and shall show:

* * * * *

11. The introductory text of § 1041.82 is revised to read as follows:

§ 1041.82 Payments to the producer-settlement fund.

On or before the 13th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

* * * * *

12. Section 1041.83 is revised to read as follows:

§ 1041.83 Payment out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1041.82(b) exceeds the amount computed pursuant to § 1041.82(a).

13. In § 1041.85 paragraph (a) is revised to read as follows:

§ 1041.85 Marketing service deductions.

(a) In making the payments required by § 1041.80 (a) (2) and (b) to producers, other than payments to himself and to any producer who is a member of a cooperative association which the Secretary determines is performing the services specified in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, for marketing services. The handler shall pay the amount deducted to the market administrator on or before the 13th day after the end of the month.

* * * * *

14. Section 1041.86 is revised to read as follows:

§ 1041.86 Expense of administration.

On or before the 13th day after the end of each month, each handler shall make payment to the market admistrator as his pro rata share of the expense of administration of this part. The payment shall be at the rate of 3 cents per hundredweight or such lesser amount as the Secretary may prescribe. The payment shall apply to all of the handler's receipts during the month of skim milk and butterfat contained in (a) producer milk (including a handler's own farm production); and (b) other source milk at a pool plant which is allocated to Class I milk pursuant to § 1041.46 (a)(3), (a)(7) and the corresponding steps of § 1041.46(b). The payment shall apply also to the quantity of route disposition in the marketing area during the month of other source milk from a partially regulated distributing plant that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

[F.R. Doc. 66-12618; Filed, Nov. 21, 1966; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 76]

PREVENTION, CONTROL AND ABATEMENT OF AIR POLLUTION FROM FEDERAL GOVERNMENT ACTIVITIES; PERFORMANCE STANDARDS AND TECHNIQUES OF MEASUREMENT

Notice of Proposed Sulfur Oxides Emission Limits and Control Measures

In accordance with the provisions of § 76.5(c), notice is hereby given that the Secretary of Health, Education, and Welfare intends to adopt the limits on the emission of sulfur oxides and the control measures set out in the following revision of § 76.5(c), 30 days after the publication of this notice. The limitations and control measures will be effective October 1, 1968, and will be applicable as indicated to Federal facilities located in the New York and Chicago Standard Consolidated Areas and in

Philadelphia Standard Metropolitan Statistical Area, as defined by the Bureau of the Budget.

These limitations and control measures are intended to assure that emissions of sulfur oxides from Federal facilities in the designated areas are minimized to the extent practicable, as required by section 4(c) of Executive Order 11282, May 26, 1966.

The limits to be established take cognizance of the varying severity of the sulfur oxide problem in the designated areas, which requires more restrictive measures in the New York Standard Consolidated Area than in the other areas. Such limits and the related measures will be subject to review and revision in the light of changing circumstances and technology.

It is also proposed to correct the number of the Bureau of Mines Circular referred to in § 76.1(c).

Interested persons are invited to submit written comments, suggestions or objections (in duplicate) regarding the proposed revisions to the Secretary of Health, Education, and Welfare, Washington, D.C. 20201, within 20 days after publication of this notice in the FEDERAL REGISTER. Federal, State, and local officials and affected parties who desire consultation in addition to, or in lieu of, the submission of written comments, suggestions or objections, will be arranged upon written request filed with the Secretary not later than 7 days after publication of this notice in the FEDERAL REGISTER. Data and information supporting the proposed revisions are available upon request from the Division of Air Pollution, Public Health Service, DHEW, Washington, D.C. 20201.

Part 76 would be revised as follows:

1. Section 76.1(c) would be amended to read:

(c) "Ringelmann Scale" means the Ringelmann Scale as published in the U.S. Bureau of Mines Information Circular 7718.

2. Section 76.5(c) would be amended to read:

(c) (1) Combustion units of all Federal facilities or buildings located in the following areas shall comply with the applicable emission limitations and control measures set out below:

(i) In the New York Standard Consolidated Area, the emission rate of sulfur oxides (calculated as sulfur dioxide) from fuels used in combustion units shall not exceed a maximum emission rate of 0.35 pounds per million B.t.u. (gross value).

(ii) In the Chicago Standard Consolidated Area and in the Philadelphia Standard Metropolitan Statistical Area, the emission rate of sulfur oxides (calculated as sulfur dioxide) from fuels used in combustion units shall not exceed a maximum emission rate of 0.65 pounds per million B.t.u. (gross value).

(2) If compliance with the above emission standard is to be accomplished by means of controlled fuel quality, the agency responsible for each Federal facility in the designated areas shall establish appropriate fuel specifications to insure that the above emission limitations are met and shall provide for adequate tests to ascertain that delivered fuel meets the applicable specifications. If removal of sulfur oxides from flue gases is used to control emissions, the facility shall provide for continuous monitoring and recording of the sulfur oxide content of flue gases emitted. The sulfur content of fuels shall be determined in accordance with current recognized testing procedures of the American Society for Testing Materials. The sulfur content of the flue gases shall be determined in accordance with current recognized testing procedures of the American Society of Mechanical Engineers.

(3) The limitations and measures established in subparagraph (1) shall be revised or amended only after consultation with appropriate Federal, State, and local officials and affected parties. Not less than 30 days prior to prescribing such revised or amended limits or measures, the Secretary will publish in the FEDERAL REGISTER notice of his intention to adopt such limits or measures, and will thereafter publish in the FEDERAL REGISTER the limits or measures established. The Secretary may at any time designate other urban areas which suffer from extremely high air pollution levels, and after similar consultation, and publication in the FEDERAL REGISTER, prescribe such limits or measures as he determines are necessary to carry out the intent of Executive Order 11282.

(Sec. 5, E.O. 11282)

Dated: November 17, 1966.

JOHN W. GARDNER,
Secretary.

[F.R. Doc. 66-12661; Filed, Nov. 21, 1966; 8:50 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. R-310]

ANNUAL REPORTS OF MUNICIPAL ELECTRIC UTILITIES

Notice of Proposed Rule Making

NOVEMBER 15, 1966.

1. Notice is given pursuant to section 4 of the Administrative Procedure Act that the Commission proposes to revise, effective for the reporting year 1967, the annual report FPC Form No. 1-M, prescribed by § 141.7 of the Commission's regulations for use by municipal electric utilities having annual operating revenues of $250,000 or more. The ultimate purpose of the revision is to make the information supplied in this form uniform for statistical purposes with that reported by the privately owned companies in FPC Form No. 1.

Basically, the revision proposed would be accomplished by replacing the schedules on pages 8 through 12 of the existing Form 1-M[1] with those on pages 432 through 441 in the current Form No. 1. Attachment A hereto indicates the change in the contents of the form which would be effected by the proposed revision. The propsed replacement of certain of the Form No. 1-M schedules by schedules similar to those in Form No. 1 will require, as well, editorial and other conforming changes. We are proposing also to require an additional copy of the report for use in the Commission's regional offices. Finally, we are proposing to add an instruction explaining the significance of the references to the Commission's uniform system of accounts in some of the schedules. We recognize that the reporting municipalities are not required to keep their accounts in accordance with the uniform system of accounts but believe that the value of the information will be enhanced by reporting, to the extent possible, within its overall frame of reference. Attachment B[2] contains all the pages of the form which we are proposing to add or revise. No changes are proposed on pages 2 through 7, or on pages 13 and 14.

2. The revision being proposed would (a) place the production expenses and other operating data of the large municipals on a comparable basis with that of the privately owned company; (b) result in a uniformity of reporting; and (c) provide a more complete source of information for the interested public, the Commission's own use and in Commission publications: "Steam-Electric Plant Construction Cost and Annual Production Expenses, and Hydroelectric Plant Construction Cost and Annual Production Expenses."

3. Although the proposed revision of Form 1-M would appear to require more detail and recordkeeping, we believe that less time and effort would be required for most of the utilities, particularly the smaller systems, to complete the required schedules. Our latest information indicates that about one-half of the respondents having generating capacity would report generating plant statistics on the new "small plants" schedule (p. 13) which requires only a single line entry for each plant. Several of the larger respondents, including the federal agencies and a few REA cooperatives are already using the Form No. 1 schedules as permitted by the proviso in paragraph (a) of § 141.7, the regulation prescribing the form. We, therefore, believe that the proposed revision will not, on the whole, result in increasing the reporting burden on the respondent municipalities unreasonably in view of the more than compensating uniformity of reporting which would result from the proposed revision.

4. The revision of FPC Form 1-M and the conforming revision of § 141.7 of the Commission's regulations, under which it is prescribed, are proposed to be issued under the authority granted by the Federal Power Act, as amended, particularly sections 309 and 311 thereof (49 Stat. 858, 859; 16 U.S.C. 825h, 825j).

[1] Generating Station Statistics, p. 8; Steam Generating Stations, pp. 9-10; Hydroelectric Generating Stations, pp. 11-12.

[2] Attachment B filed as part of original document.

5. Accordingly, it is proposed—

a. To revise, effective for a reporting year ending during the calendar year 1967, the Annual Report for Municipal Electric Utilities, FPC Form No. 1–M, prescribed by § 141.7, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations by revising page 1 thereof; by deleting pages 8 through 12 and, in lieu thereof, inserting new pages 8 through 20; and by adding a new page 23 all as set out in Attachment B hereto; [2]

b. To revise the several dates appearing in paragraphs (a) and (b) of the said § 141.7 as may be appropriate to the effective date of any final order which may be issued herein.

c. To delete from the said paragraph (b) the words "an original and two conformed copies all properly filled out and verified." and to insert, in lieu thereof, "an original and three conformed copies all properly filled out and attested."

d. To revise paragraph (c) of the said § 141.7 by deleting from the list of schedules the titles reading "Verification," "Generating Station Statistics," "Steam Generating Stations," and "Hydroelectric Generating Stations" and inserting in lieu thereof the following:

Steam-Electric Generating Plant Statistics (Large Plants).
Hydroelectric Generating Plant Statistics (Large Plants).
Generating Plant Statistics (Small Plants).
Changes Made or Scheduled to be Made in Generating Plant Capacities.
Steam-Electric Generating Plants.
Hydroelectric Generating Plants.
Internal-Combustion Engine and Gas-Turbine Generating Plants.
Attestation.

6. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than January 6, 1967, data, views and comments in writing concerning the proposed revisions. An original and 14 conformed copies should be filed with the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed revisions under provisions of the Federal Reports Act of 1942 may at the same time submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Standards, Bureau of the Budget, Washington, D.C. 20503. Submissions to the Commission should indicate the name and address of the person to whom correspondence in regard to the proposal should be addressed and whether the person filing them requests a conference at the Federal Power Commission to discuss the proposed revision of the annual report form. The Commission will consider all such written submissions before acting on the proposed amendments.

By direction of the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[2] Attachment B filed as part of original document.

ATTACHMENT A—SUMMARY OF PROPOSED REVISIONS

Old page No.	Title	New page No.	Title
1	Identification/General Instructions/Excerpts From the Law/Verification/General Information.	1	Identification/General Instructions/Excerpts From the Law/General Information.
8	Generating Station Statistics	8–9	Steam-Electric Generating Plant Statistics (Large Plants).
		10	Steam-Electric Generating Plant Statistics (Large Plants) Average Annual Heat Rates and Corresponding Net Kwh Output for Most Efficient Generating Units.
		11–12	Hydroelectric Generating Plant Statistics (Large Plants).
		13	Generating Plant Statistics (Small Plants).
		14	Changes Made or Scheduled To Be Made in Generating Plant Capacities.
9–10	Steam Generating Stations	15–16	Steam-Electric Generating Plants.
11–12	Hydroelectric Generating Stations	17–18	Hydroelectric Generating Plants.
		19–20	Internal-Combustion Engine and Gas-Turbine Generating Plants.
13	Transmission Line Statistics/Transmission Lines Added During the Year.	21	Same titles.
14	Electric Energy Account	22	Same title.
1	Verification	23	Attestation.

[F.R. Doc. 66–12571; Filed, Nov. 21, 1966; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 8]

IMPORTATION OF SPRUCE AND PINE LUMBER

Additional Invoice Requirements

Under the authority vested in the Secretary of the Treasury with respect to any facts deemed necessary to a proper appraisement, examination and classification of merchandise by section 481(a)(10) of the Tariff Act of 1930, as amended (19 U.S.C. 1481(a)(10)), additional information may be required on the invoices of merchandise to be imported into the United States. These requirements and the Treasury decisions in which they appear are listed in § 8.13(h) of the Customs Regulations.

Because of the difficulty in identification and classification of shipments of spruce and pine lumber provided for under items 202.03 and 202.09, Tariff Schedules of the United States (19 U.S.C. 1202 (items 202.03, 202.09)), it is considered necessary to require that invoices for such shipments contain, in addition to all the other information required by law or regulations, a declaration by the shipper or other person having actual knowledge of the facts, as to the species of the lumber.

Accordingly, it is proposed to amend § 8.13(h) as set forth in tentative form below:

Section 8.13(h) is amended by inserting in the listing of classes of merchandise, in proper alphabetic order, the following:

§ 8.13 Contents of invoices; incomplete invoices; general requirements supplemented.

* * * * *

(h) * * *

Lumber, spruce (also termed Western white spruce) (Picea) and pine classifiable respectively under item 202.03 and item 202.09, Tariff Schedules of the United States. (1) A declaration by the shipper or other person having actual knowledge as to the quantity of spruce and the quantity of pine in the shipment.

* * * * *

Prior to final action on the proposal, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, and received within a period of 30 days from the date of the publication of this notice in the FEDERAL REGISTER. No hearings will be held.

[SEAL] LESTER D. JOHNSON,
Commissioner of Customs.

Approved: November 15, 1966.

TRUE DAVIS,
Assistant Secretary of the Treasury.

[F.R. Doc. 66–12600; Filed, Nov. 21, 1966; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 498 (ND)]

NORTH DAKOTA

Notice of Proposed Classification of Public Lands

NOVEMBER 14, 1966.

Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18), and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify the public lands described below, for retention for multiple use management. Publication of this notice segregates the described public lands from appropriation under the homestead, desert land, and allotment laws (43 U.S.C. ch. 7, 43 U.S.C. ch. 9, and 25 U.S.C. 331), and from sale under section 2455 of the revised statutes (43 U.S.C. 1171).

For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the district manager, Bureau of Land Management, Miles City, Mont.

The public lands proposed for classification are located as described below and are shown on maps on file in the office of the State Outdoor Recreation Agency, 107 South Fifth Street, Bismarck, N. Dak.:

FIFTH PRINCIPAL MERIDIAN, NORTH DAKOTA

DIVIDE COUNTY

T. 163 N., R. 95 W.,
Sec. 25, SW¼SW¼;
Sec. 26, SE¼SE¼;
Sec. 27, SW¼SE¼.
T. 160 N., R. 99 W.,
Sec. 5, SW¼SE¼.
T. 160 N., R. 100 W.,
Sec. 22, SW¼NE¼, and NW¼SE¼.
T. 162 N., R. 102 W.,
Sec. 8, SW¼NW¼, and N½SW¼;
Sec. 17, NE¼NW¼;
Sec. 20, SW¼NE¼, S½NW¼, and SW¼;
Sec. 29, NW¼;
Sec. 30, SE¼NE¼, and NE¼SE¼.
T. 163 N., R. 102 W.,
Sec. 26, SE¼NE¼, and SW¼NW¼.
T. 160 N., R. 103 W.,
Sec. 15, W½NW¼, and NW¼SW¼;
Sec. 21, NE¼NW¼;
Sec. 33, Lot 1.
T. 161 N., R. 103 W.,
Sec. 23, NE¼NE¼, and SE¼SE¼;
Sec. 24, SW¼SW¼.
T. 162 N., R. 103 W.,
Sec. 3, Lots 1, 2, 3, and 4, and S½NE¼.
T. 163 N., R. 103 W.,
Sec. 11, SE¼SE¼;
Sec. 14, S½SE¼.

MCHENRY COUNTY

T. 153 N., R. 75 W.,
Sec. 3, Lot 6;
Sec. 25, NE¼SW¼;
Sec. 31, Lots 2 and 4
T. 155 N., R. 75 W.,
Sec. 6, SE¼NE¼;
Sec. 19, Lot 3;
Sec. 23, S½NW¼, NE¼SW¼, and NW¼SE¼;
Sec. 29, N½SW¼.
T. 155 N., R. 76 W.,
Sec. 23, N½NW¼, and NW¼SE¼.
T. 152 N., R. 77 W.,
Sec. 23, SW¼NE¼.
T. 153 N., R. 77 W.,
Sec. 23, SW¼SE¼;
Sec. 25, E½SW¼.
T. 156 N., R. 77 W.,
Sec. 10, NW¼SW¼.
T. 151 N., R. 78 W.,
Sec. 23, NE¼SE¼;
Sec. 24, NW¼NW¼.
T. 152 N., R. 78 W.,
Sec. 15, SE¼SW¼, and SW¼SE¼;
Sec. 22, N½, and N½SE¼.

MCLEAN COUNTY

T. 149 N., R. 84 W.,
Sec. 11, E½SW¼.
T. 150 N., R. 84 W.,
Sec. 27, NW¼SE¼.
T. 150 N., R. 86 W.,
Sec. 21, NE¼SE¼;
Sec. 22, S½NW¼, and NW¼SW¼.

MOUNTRAIL COUNTY

T. 155 N., R. 87 W.,
Sec. 20, Lot 4.
T. 156 N., R. 88 W.,
Sec. 17, SW¼NE¼.
T. 156 N., R. 89 W.,
Sec. 3, SE¼NW¼;
Sec. 7, Lots 1 and 2.
T. 157 N., R. 89 W.,
Sec. 29, Lot 1.
T. 156 N., R. 90 W.,
Sec. 20, SE¼SW¼, and SW¼SE¼.
T. 158 N., R. 90 W.,
Sec. 18, SE¼NE¼.
T. 156 N., R. 91 W.,
Sec. 5, Lot 4;
Sec. 13, W½NE¼.
T. 157 N., R. 91 W.,
Sec. 34, Lot 2.

SHERIDAN COUNTY

T. 145 N., R. 74 W.,
Sec. 26, SE¼NE¼, and NE¼SE¼.
T. 150 N., R. 75 W.,
Sec. 14, S½NW¼.
T. 149 N., R. 77 W.,
Sec. 2, Lot 7.
T. 150 N., R. 77 W.,
Sec. 13, Lot 1;
Sec. 17, SW¼SW¼;
Sec. 20, Lots 1 and 2;
Sec. 28, Lot 2;
Sec. 35, Lot 2.

WARD COUNTY

T. 151 N., R. 84 W.,
Sec. 29, NE¼SW¼.
T. 153 N., R. 86 W.,
Sec. 5, Lots 1 and 5.
T. 152 N., R. 87 W.,
Sec. 1, Lot 6;
Sec. 4, SE¼SW¼;
Sec. 9, NE¼NW¼.
T. 155 N., R. 87 W.,
Sec. 8, NW¼SW¼.

WILLIAMS COUNTY

T. 159 N., R. 100 W.,
Sec. 22, SE¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, N½SE¼, and SW¼SE¼.

PIERCE COUNTY

T. 157 N., R. 72 W.,
Sec. 23, Lot 5.
T. 152 N., R. 73 W.,
Sec. 5, Lot 10.
T. 152 N., R. 74 W.,
Sec. 8, Lots 1, 5, and 6.
T. 154 N., R. 74 W.,
Sec. 30, NE¼SW¼.

BARNES COUNTY

T. 143 N., R. 60 W.,
Sec. 12, Lots 1 and 2.

BURLEIGH COUNTY

T. 142 N., R. 75 W.,
Sec. 12, S½SW¼;
Sec. 14, S½SW¼, and E½SE¼;
Sec. 22, N½NE¼;
Sec. 26, NW¼NE¼, and NE¼NW¼.
T. 144 N., R. 77 W.,
Sec. 22, NE¼.

EMMONS COUNTY

T. 135 N., R. 74 W.,
Sec. 6, Lot 1.
T. 136 N., R. 74 W.,
Sec. 32, S½N½, and S½.

KIDDER COUNTY

T. 137 N., R. 71 W.,
Sec. 24, Lot 5.
T. 140 N., R. 71 W.,
Sec. 6, SE¼NE¼, and SE¼.
T. 144 N., R. 71 W.,
Sec. 28, Lot 3.
T. 138 N., R. 72 W.,
Sec. 4, NE¼, S½NW¼, and SW¼;
Sec. 8, NE¼NE¼;
Sec. 18, NW¼.
T. 140 N., R. 72 W.,
Sec. 14, Lots 1 and 2;
Sec. 22, SE¼NE¼, and SE¼.
T. 141 N., R. 72 W.,
Sec. 22, Lot 1.
T. 142 N., R. 72 W.,
Sec. 34, NE¼SE¼.
T. 143 N., R. 72 W.,
Sec. 6, Lot 3.
T. 138 N., R. 73 W.,
Sec. 12, NW¼NE¼, and SE¼SE¼;
Sec. 14, S½N½.
T. 143 N., R. 74 W.,
Sec. 4, Lots 1 and 2.

LOGAN COUNTY

T. 136 N., R. 68 W.,
Sec. 30, NW¼NE¼.
T. 134 N., R. 69 W.,
Sec. 14, NW¼NW¼, and W½SW¼;
Sec. 34, NW¼NE¼, and NE¼NW¼.
T. 135 N., R. 69 W.,
Sec. 28, N½NE¼;
Sec. 32, NE¼.
T. 136 N., R. 69 W.,
Sec. 8, SW¼NE¼.

MC INTOSH COUNTY

T. 129 N., R. 68 W.,
Sec. 12, NW¼NE¼.
T. 130 N., R. 68 W.,
Sec. 24, Lot 6, SW¼NE¼, and NW¼SE¼.
T. 132 N., R. 68 W.,
Sec. 20, NE¼NE¼.

STUTSMAN COUNTY

T. 138 N., R. 67 W.,
Sec. 8, NE¼NW¼.
T. 138 N., R. 68 W.,
Sec. 10, SW¼SE¼.

The public lands in the areas described aggregate approximately 7,914.09 acres.

A public hearing will be held, with a time and place to be announced, if the authorized officer determines that there is sufficient public interest to warrant such a hearing.

HAROLD TYSK,
State Director.

[F.R. Doc. 66-12589; Filed, Nov. 21, 1966; 8:47 a.m.]

Fish and Wildlife Service

[Docket No. A-414]

JACK E. AND WINNIFRED V. CROWLEY

Notice of Loan Application

Jack E. and Winnifred V. Crowley, 400 East Street, Juneau, Alaska 99801, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 53.1-foot wood vessel to engage in the fishery for halibut, sablefish, shrimp, and albacore.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

J. L. MCHUGH,
Acting Director,
Bureau of Commercial Fisheries.

NOVEMBER 17, 1966.

[F.R. Doc. 66-12597; Filed, Nov. 21, 1966; 8:47 a.m.]

[Docket No. S-376]

LORNE M. ALLEN

Notice of Loan Application

Lorne M. Allen, Post Office Box 72, Agate Beach, Oreg. 97320, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 37.1-foot registered length wood vessel to engage in the fishery for salmon, tuna, and crab.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised Aug. 11, 1965) that the above-entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

J. L. MCHUGH,
Acting Director,
Bureau of Commercial Fisheries.

NOVEMBER 17, 1966.

[F.R. Doc. 66-12610; Filed, Nov. 21, 1966; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Members of Administrator's Immediate Staff

The delegations of authority set forth in Division V of the statement of Organization, Functions and Delegations of Authority of Agricultural Stabilization and Conservation Service published in the FEDERAL REGISTER on May 2, 1963 (28 F.R. 4368) is amended by adding a new sentence as follows at the end of the first paragraph under the heading, B. *Members of the Administrator's immediate staff.*

V. *Delegations of authority.* * * *

B. *Members of the Administrator's immediate staff.* * * * The authority delegated herein to the Deputy Administrator, State and County Operations includes the authority to promulgate by publication in the FEDERAL REGISTER, determinations made by ASC State or County committees, the Executive Director of the Hawaii Agricultural Stabilization and Conservation Service State Office, and the Director, Agricultural Stabilization and Conservation Service Caribbean Area Office, designating local producing areas for purposes of considering eligibility of producers for abandonment or crop deficiency payment, or for prevented acreage credit under the Sugar Act of 1948, as amended, and regulations issued pursuant thereto.

Signed at Washington, D.C., November 17, 1966.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 66-12614; Filed, Nov. 21, 1966; 8:49 a.m.]

SUGARCANE IN PUERTO RICO

1967-68 Crop Proportionate Shares; Notice of Hearing

Notice is hereby given that the Secretary of Agriculture, acting pursuant to the Sugar Act of 1948, as amended, is preparing to conduct a public hearing to receive views and recommendations from all interested persons on the possible need for establishing proportionate shares for the 1967-68 sugarcane crop in Puerto Rico.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended, the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in Puerto Rico will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

The hearing on this matter will be conducted in Room 2W, Administration Building, U.S. Department of Agriculture, Washington, D.C., beginning at 10 a.m. on December 15, 1966.

Views and recommendations are desired on all phases of the proportionate share program. They may be submitted in writing, in triplicate, at the hearing, or may be mailed to the Director, Sugar Policy Staff, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, postmarked not later than December 30, 1966. Interested persons will be given the opportunity at the hearing to appear and submit orally data, views, and arguments in regard to the establishment of proportionate shares.

Restrictions on the marketing of sugarcane in Puerto Rico have not been in effect since the 1955-56 crop. The area has not marketed all of its mainland basic sugar quota in recent years. Prospects for the 1966-67 crop indicate that production will again fall short of the area's mainland basic quota.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27 (b)).

Signed at Washington, D.C., on November 15, 1966.

E. A. JAENKE,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 66-12615; Filed, Nov. 21, 1966; 8:49 a.m.]

Consumer and Marketing Service

LA GRANGE STOCKYARDS, INC., ET AL.

Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

Original name of stockyard, location, and date of posting	*Current name of stockyard and date of change in name*
GEORGIA	
La Grange Stockyards, Inc., La Grange, June 16, 1959.	La Grange Stockyards, July 1, 1966.
MONTANA	
Shelby Stockyards Company, Shelby, Feb. 18, 1956	Shelby Stockyards Company, Inc., July 1, 1966.
NEW YORK	
Amsterdam Livestock Sales, Inc., Amsterdam, Aug. 16, 1960.	County Livestock Sales, Inc., Aug. 26, 1966.
NORTH CAROLINA	
Dedmons Livestock Yards, Shelby, Apr. 2, 1959	Dedmon's Livestock Yards, July 12, 1966.
Winfield Livestock Auction Market, Chocowinity, July 9, 1959.	Winfield Stockyards, Inc., Oct. 25, 1966.
OKLAHOMA	
Altus Stockyards, Inc., Altus, Oct. 24, 1949	Altus Stockyards, July 1, 1966.
SOUTH DAKOTA	
Platte Livestock Sales Company, Platte, Oct. 13, 1951.	Platte Livestock Auction Company, Aug. 1, 1966.
TENNESSEE	
Macon County Livestock Market, Inc., Lafayette, May 6, 1959.	Macon County Livestock Market, May 4, 1966.
TEXAS	
Graham Livestock Commission Company, Graham, Nov. 13, 1956.	Graham Livestock Commission, Inc., Sept. 1, 1966.
Gulf Coast Stockyards, Inc., Bay City, May 1, 1957	Gulf Coast Stockyards, Aug. 26, 1966.

Done at Washington, D.C., this 16th day of November 1966.

CHARLES G. CLEVELAND,
Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards Division, Consumer and Marketing Service.

[F.R. Doc. 66-12617; Filed, Nov. 21, 1966; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-97; NDA No. 31-406V]

CENTRAL SOYA CO.

Master Mix Broiler Concentrate "A" 377A-13C; Notice of Opportunity for Hearing

Correction

In F.R. Doc. 66-12465 appearing in the issue for Thursday, November 17, 1966, at page 14658, in the center column, the ninth line of the first paragraph which reads "'A' 337A-13C" should read "'A' 377A-13C". In the second paragraph, the third line from the bottom which now reads "unsafe residues of the drug of metabolites" should read "unsafe residues of the drug or metabolites".

Office of the Secretary

AIR POLLUTION CONTROL; INTERSTATE AIR POLLUTION IN THE NEW YORK-NEW JERSEY METROPOLITAN AREA

Notice of Conference of Air Pollution Control Agencies

Whereas, the Governor of the State of New York has made a written request, pursuant to section 105(c)(1)(A) of the Clean Air Act (42 U.S.C. 1857d(c)(1)(A)), that a conference be called regarding air pollution originating in the State of New Jersey which is alleged to endanger the health or welfare of persons in the State of New York, and

Whereas, on the basis of reports, surveys or studies, I have reason to believe that air pollution originating in the State of New York is endangering the health or welfare of persons in the State of New Jersey, and

Whereas, officials of the State of New York and of the State of New Jersey have been consulted pursuant to section 105(c)(1)(C) of the Clean Air Act (42 U.S.C. 1857d(c)(1)(C)),

Now, therefore, pursuant to sections 105(c)(1)(A) and 105(c)(1)(C) of the Clean Air Act, I hereby give formal notification of the air pollution described above to, and call a conference of, the air pollution control agencies of the following:

State of New Jersey—New Jersey State Health Department.

State of New York—New York State Air Pollution Control Board.

The Interstate Sanitation Commission.

All municipalities, as defined in section 302(f) of the Clean Air Act (42 U.S.C. 1857h(f)), located in the following named counties:

New York—Nassau, Rockland and Westchester;

New Jersey—Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, Somerset and Union; and

The city of New York.

Mr. S. Smith Griswold of the Department of Health, Education, and Welfare is hereby designated as Presiding Officer of the Conference, and Mr. William H. Megonnell is hereby designated as the official confcrence participant of the Department of Health, Education, and Welfare. The first session of the conference, which will be concerned primarily with air pollution caused by sulfurous compounds and carbon monoxide, will be convened at a time and place to be fixed by the Presiding Officer after consultation with air pollution control officials of the States of New York and New Jersey.

Any municipality desiring to make a formal presentation at the conference should file 5 copies of a notice of such intention with Mr. S. Smith Griswold, Room 2432, South Building, Department of Health, Education, and Welfare, Washington, D.C. 20201, not later than December 16, 1966.

The agencies called to attend such conference may bring such persons as they desire to the conference.

Dated: November 17, 1966.

[SEAL] JOHN W. GARDNER,
Secretary.

[F.R. Doc. 66-12662; Filed, Nov. 21, 1966; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-170]

ARMED FORCES RADIOBIOLOGY RESEARCH INSTITUTE

Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 11, set forth below, to Facility Li-

cense No. R–84 to the Armed Forces Radiobiology Research Institute (AFRRI), Bethesda, Md. The amendment authorizes AFRRI (1) to use, for startup of the reactor, an Americium-Beryllium neutron source to replace two sources previously used for that purpose, and (2) to remove the present water fission products monitor from the reactor system, as described in the licensee's application for license amendment dated May 27, 1966. Action on a third item concerning an authorization of 1 megawatt steady state operations subject to the results of environmental film badge monitoring, is being deferred until additional requested information has been submitted by AFRRI.

Within 15 days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the provisions of the Commission's regulations (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's application for license amendment dated May 27, 1966, and (2) a related Safety Evaluation prepared by the Test and Power Reactor Safety Branch of the Division of Reactor Licensing, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 14th day of November 1966.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[License No. R–84; Amdt. 11]

The Atomic Energy Commission (hereinafter referred to as "the Commission") having found that:

a. The application for amendment dated May 27, 1966, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;

b. Operations of the reactor in accordance with the license, as amended, will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;

c. Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve significant hazards considerations different from those previously evaluated.

On the basis described in the application for license amendment dated May 27, 1966, License No. R–84, issued to Armed Forces Radiobiology Research Institute, is hereby amended in the following respects:

1. Paragraph 3.C. (3) is revised in its entirety to read as follows:

"3.C. Pursuant to the Act and Title 10, CFR, Chapter I, Part 30 'Rules of General Applicability to Licensing of Byproduct Material', to receive, possess, and use a 3 curie sealed Americium-Beryllium neutron source for reactor start-up; and to possess, but not to separate such byproduct material as may be produced by operation of the reactor."

2. Armed Forces Radiobiology Research Institute is authorized to remove the present water fission products monitor from the reactor system.

This amendment is effective as of the date of issuance.

Date of issuance: November 14, 1966.

For the Atomic Energy Commission.

Director,
Division of Reactor Licensing.

[F.R. Doc. 66–12570; Filed, Nov. 21, 1966; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 17655]

LINEAS AEREAS COSTARRICENSES, S.A. (LACSA)

Notice of Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference on the above-entitled application now assigned to be held on November 29, 1966, is postponed to December 13, 1966. The conference will be held at 10 a.m., e.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Herbert K. Bryan.

Dated at Washington, D.C., November 17, 1966.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 66–12605; Filed, Nov. 21, 1966; 8:48 a.m.]

[Docket No. 17820]

REALAIRE, ET AL.

Notice of Proposed Approval

Application of RealAire et al., for approval of control and interlocking relationships pursuant to sections 408 and 409 of the Federal Aviation Act of 1958, as amended, Docket 17820.

Notice is hereby given, pursuant to the statutory requirements of section 408(b), that the undersigned intends to issue the order set forth below under delegated authority. Interested parties are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 16, 1966.

J. W. ROSENTHAL,
Director,
Bureau of Operating Rights.

ORDER APPROVING CONTROL AND INTERLOCKING RELATIONSHIPS

Issued under delegated authority:

Application of RealAire and Ralph S. Newcomer, Docket 17820, for approval of interlocking relationships pursuant to section 409 of the Federal Aviation Act of 1958, as amended.

By application filed October 17, 1966, RealAire, a California corporation, and Ralph S. Newcomer request the Board to approve, pursuant to section 409 of the Federal Aviation Act of 1958, as amended (the Act), the interlocking relationships arising from the holding by Mr. Newcomer of the positions as president and director of RealAire and as principal operations officer, general manager, and sole owner of Real Transportation Co., an unincorporated company under which style and firm name Mr. Newcomer does business.

It further appears from the application that Mr. Newcomer, besides being the sole owner of Real Transportation Co., is also the sole stockholder of RealAire. Mr. Newcomer's ownership and control both of RealAire and Real Transportation is, of course, subject to section 408 of the Act. Although the application does not include a specific request for approval of such affiliation, the Board will act on the matter on its own motion.

RealAire is an applicant for domestic and international airfreight forwarder authorization and for the purpose of this proceeding is considered to be an air carrier. Real Transportation Co. is an intrastate surface carrier by motor vehicle. It is proposed that the company will serve as pickup and delivery agent in the Los Angeles basin area for RealAire on a nonexclusive basis.

No comments relative to the joint application or request for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the joint application, it is concluded that Real Transportation Co. is a common carrier within the meaning of section 408 of the Act, and that the common control of Real Transportation Co. and RealAire by Mr. Newcomer is subject to that section.

However, it has been further concluded that such control relationships do not affect a carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly, and do not restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing and it is found that the public interest does not require a hearing. The control relationships are similar to others which have been approved by the Board and essentially do not present any new substantive issues.[1] It therefore appears that approval of the control relationships would not be inconsistent with the public interest. However, should the drayage services now operated by Mr. Newcomer, doing business as Real Transportation Co., be expanded, new issues would be raised which could only be resolved upon the filing of a further application for prior approval by the Board. Accordingly, approval of the instant relationships will be conditioned so that such approval shall be effective only so long as the operation of motor vehicles by

[1] Cf. Mark IV Air Freight, Inc., et al., Docket 16233, Order E–22451, July 19, 1965. See also Trans-Pacific Air Cargo, et al., Docket 16029, Order E–22158, May 13, 1965.

Mr. Newcomer, doing business as Real Transportation Co., is limited to the State of California.

It is also found that interlocking relationships within the scope of section 409 of the Act will result from Mr. Newcomer being the sole owner of Real Transportation Co., while concurrently he is sole stockholder, director and president of RealAire. However, it is concluded that a due showing has been made in the form and manner prescribed by Part 251 of the Board's Economic Regulations that the interlocking relationships will not adversely affect the public interest.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing control relationships should be approved under section 408(b) of the Act without a hearing, and that the interlocking relationships should be approved under section 409.

Accordingly, it is ordered:

1. That the control relationships resulting from the common control by Mr. Newcomer of RealAire and Real Transportation Co. be and they hereby are approved;

2. That, subject to the provisions of Part 251 of the Board's Economic Regulations, as now in effect or as hereafter amended, the interlocking relationships resulting from the ownership by Mr. Newcomer of Real Transportation Co. and his holding of the positions above described in RealAire be and they hereby are approved; and

3. That the approvals herein shall be effective only so long as the operation of motor vehicles by Mr. Newcomer is limited to the State of California.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

By: J. W. Rosenthal,
Director,
Bureau of Operating Rights.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66-12606; Filed, Nov. 21, 1966; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16495; FCC 66-1040]

DOMESTIC NONCOMMON CARRIER COMMUNICATION-SATELLITE FACILITIES

Establishment by Nongovernmental Entities; Order Extending Time for Filing Comments and Reply Comments

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 16th day of November 1966:

1. The Commission has under consideration a motion of the Communications Satellite Corporation (Comsat) filed November 16, 1966, for an extension of time until December 16, 1966, for the filing by it and others of comments responsive to the submissions filed to the original notice of inquiry in this matter and the Commission's supplemental notice in this matter and also for an extension until February 1, 1967, of the time for filing reply comments.

2. In support of its motion, Comsat alleges:

(a) Adequate comment on the previous submissions requires thorough consideration of various legal, technical, and economic factors;

(b) That the questions raised in the supplemental notice of inquiry are of major significance;

(c) That the recommendations of the Carnegie Commission on Educational Television expected early in January 1967, will contain recommendations on the future organization, scope, funding, and programing of American noncommercial television which should be studied and considered in the reply comments; and

(d) That unanticipated problems related to the recent launch of Intelsat II have placed a heavy burden on the staff of Comsat and thus will make it difficult to complete preparation of its submission by November 30, 1966.

3. It appearing to the Commission that good cause has been shown for a postponement as requested by Comsat and that more thorough and meaningful responses will be available to the Commission if the dates for filing comments and replies are postponed as requested by Comsat:

It is ordered, That the motion of Comsat is granted and that the date for filing comments responsive to the submissions made to the original notice of inquiry and the Commission's supplemental notice is postponed from November 30, 1966, to December 16, 1966, and the time for filing reply comments is postponed from December 30, 1966, to February 1, 1967.

Released: November 17, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-12619; Filed, Nov. 21, 1966; 8:49 a.m.]

[Docket Nos. 16890, 16891; FCC 66M-1534]

LUIS PRADO MARTORELL AND AUGUSTINE L. CAVALLARO, JR.

Order Regarding Procedural Dates

In re applications of Luis Prado Martorell, Loiza, P.R., Docket No. 16890, File No. BP-16000; Augustine L. Cavallaro, Jr., Bayamon, P.R., Docket No. 16891, File No. BP-16182; for construction permits.

The Hearing Examiner having under consideration the procedural status of the above-styled proceeding and, in particular, (1) petition to change hearing date filed November 1, 1966, by counsel for Augustine L. Cavallaro, Jr., requesting continuance of hearing now scheduled for December 19, 1966, to a date early in January 1967; (2) cablegram from Luis Prado Martorell received November 8, 1966, which requests an interview in Washington, D.C., as soon as possible for discussion of matters relating to the proceeding; and (3) petition for further prehearing conference filed November 15, 1966, by Luis Prado Martorell; and

It appearing, that a further session of prehearing conference would be useful in resolving the procedure in view of the present circumstances of this proceeding:

It is, therefore, ordered, This 16th day of November 1966, that a further session of prehearing conference in this proceeding will be held at 10 a.m., on December 1, 1966, in the offices of the Commission, Washington, D.C.; and

It is further ordered, That the hearing now scheduled for December 19, 1966, and the dates for exchange of exhibits and for notification as to witnesses, heretofore fixed, are continued to dates to be fixed at such further session of the prehearing conference.

Released: November 16, 1966.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-12620; Filed, Nov. 21, 1966; 8:49 a.m.]

[Docket No. 16869; FCC 66M-1542]

MEROCO BROADCASTING CO.

Order Canceling Hearing Date

In re application of Meroco Broadcasting Co., Greeley, Colo., Docket No. 16869, File No. BPH-5266; for construction permit.

Inasmuch as the hearing in the above-entitled matter, presently scheduled for November 21, 1966, was advanced on oral motion of Meroco to October 27, 1966, at which time the hearing was held: *It is ordered,* This 16th day of November 1966, that the hearing in the above matter presently scheduled for November 21, 1966, be, and the same is, hereby canceled.

Released: November 17, 1966.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-12622; Filed, Nov. 21, 1966; 8:50 a.m.]

[1] Chairman Hyde absent; Commissioners Bartley and Johnson dissenting.

FEDERAL MARITIME COMMISSION

MIDDLE ATLANTIC PORTS DOCKAGE ASSOCIATION

Notice of Agreement Filed for Approval

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as

amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609; or may inspect agreements at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Notice of agreement filed for apporval by:

Mr. Rene J. Gunning, Secretary-Treasurer, Middle Atlantic Ports Dockage Association, 300 St. Paul Place, Baltimore, Md.

Agreement No. 9025–2, between the members of the Middle Atlantic Ports Dockage Agreement modifies the basic agreement which provides for the establishment of a cooperative working arrangement with respect to the dockage of vessels at terminal facilities of the member parties. The purpose of the modification is to add to the scope of the agreement the dockage of vessels engaged in carrying of pig and scrap metal.

Dated: November 17, 1966.

By order of the Federal Maritime Commission.

THOMAS LISI,
Secretary.

[F.R. Doc. 66–12611; Filed, Nov. 21, 1966; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G–13830 etc.]

CHEVRON OIL CO., ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 10, 1966.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service heretofore authorized as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 5, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given: *Provided, however,* That pursuant to § 2.56, Part 2, Statement of General Policy and Interpretations, Chapter I of Title 18 of the Code of Federal Regulations, as amended, all permanent certificates of public convenience and necessity granting applications, filed after April 15, 1965, without further notice, will contain a condition precluding any filing of an increased rate at a price in excess of that designated for the particular area of production for the period prescribed therein unless at the time of filing such certificate application, or within the time fixed herein for the filing of protests or petitions to intervene the Applicant indicates in writing that it is unwilling to accept such a condition. In the event Applicant is unwilling to accept such condition the application will be set for formal hearing.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G–13830 E 10–18–66	Chevron Oil Co., Western Division (successor to Standard Oil Co. of Texas, a division of Chevron Oil Co.), Post Office Box 599, Denver, Colo. 80201.	El Paso Natural Gas Co., Blanco-Mesa Verde Field, San Juan County, N. Mex.	[3] 14.2486	15.025
G–18721 E 10–18–66	do	El Paso Natural Gas Co., Aztec-Pictured Cliffs Field, San Juan County, N. Mex.	[3] 12.2758	15.025
G–19438 C 10–31–66	John R. Royall, 3575 First National Bank Bldg., Dallas, Tex. 75202.	El Paso Natural Gas Co., Basin Dakota Pool, San Juan County, N. Mex.	12.0	15.025
G–20317 E 10–18–66	Chevron Oil Co., Western Division (successor to Standard Oil Co. of Texas, a division of Chevron Oil Co.).	El Paso Natural Gas Co., Bisti-Lower Gallup Field, San Juan County, N. Mex.	[3] 14.2678	15.025
CI61–1299 E 11–2–66	Benco Drilling Co., Inc. (successor to Pace Bower Construction Co.), c/o E. N. Clark, agent, Post Office Box 3147, Charleston, W. Va. 25332.	Consolidated Gas Supply Corp., Freemans Creek District, Lewis County, W. Va.	25.0	15.325
CI62–78 E 10–18–66	Chevron Oil Co., Western Division (successor to Standard Oil Co. of Texas, a division of Chevron Oil Co.).	El Paso Natural Gas Co., Escrito-Gallup Field, Rio Arriba County, N. Mex.	[3] 12.2295	15.025
CI62–354 E 10–31–66	Samedan Oil Corp. (Operator), et al. (successor to The Gilmer Oil Co.), Post Office Box 758, Ardmore, Okla. 73401.	Lone Star Gas Co., Sholem Alechem Field, Carter County, Okla.	[4] 16.0	14.65
CI62–636 E 10–27–66	C. S. Sentell, M.D. (successor to Joseph B. Singer (Operator), et al.), c/o John M. Shucy, attorney, 604 Johnson Bldg., Shreveport, La. 71102.	Arkansas Louisiana Gas Co., Darley Field, Claiborne Parish, La.	[5] 13.333	15.025
CI62–1312 E 11–2–66	Benco Drilling Co., Inc. (successor to Pace Bower Construction Co.).	Consolidated Gas Supply Corp., Washington District, Calhoun County, W. Va.	25.0	15.325
CI63–116 E 11–2–66	do	Consolidated Gas Supply Corp., Court House District, Lewis County, W. Va.	25.0	15.325
CI64–1108 E 11–1–66	Trebol Drilling Co. (successor to Southern New Mexico Oil Corp.), Post Office Box 3986, Odessa, Tex. 79760.	El Paso Natural Gas Co., Deep Lusk Unit Area, Lea and Eddy Counties, N. Mex.	[6] 15.5	14.65
CI64–1422 C 10–31–66	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	Oklahoma Natural Gas Gathering Corp., acreage in Major County, Okla.	11.0	14.65
CI65–2 D 10–28–66	Arkla Exploration Co., et al., Post Office Box 1126, Shreveport, La. 71102.	Arkansas Louisiana Gas Co., acreage in Haskell County, Okla.	[7]	----------
CI65–875 C 10–31–66	CWM and VLM Trust, 2300 First National Bank Bldg., Dallas, Tex. 75202.	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	13.0	15.025
CI66–867 E 10–18–66	Chevron Oil Co., Western Division (successor to Standard Oil Co. of Texas, a division of Chevron Oil Co.).	El Paso Natural Gas Co., Huerfanito Mesa Verde Unit., San Juan County, N. Mex.	13.0	15.025

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI66-901 C 10-27-66	Robert E. Aikman, et al. d.b.a. A.I.K., Ltd., No. 2, c/o Charles J. McPherren, attorney at law, 702 Vaughn Bldg., Amarillo, Tex. 79101.	Michigan Wisconsin Pipe Line Co., Mocane-Laverne Field, Beaver County, Okla.	17.0	14.65
CI66-984 (CI63-678) F 4-13-66	Amerada Petroleum Corp., (successor to George L. Buckles, et al.), Post Office Box 2040, Tulsa, Okla. 74102.	El Paso Natural Gas Co., Langlie-Mattix Field, Lea County, N. Mex.	9.0	14.65
CI66-1050 A 4-28-66 [8] 10-17-66 [9]	Jefferson Elk Oil & Gas Co., Brockport, Pa. 15823.	United Natural Gas Co., Knox Dale Field, Jefferson County, Pa.	[9]	14.73
CI67-36 A 7-11-66 9-23-66 [10]	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	Northern Natural Gas Co., Midland Division, Reeves County, Tex.	16.5	14.65
CI67-253 A 8-29-66	Walter C. Crane, et al. d.b.a. Vesta Fuel Co., 212 East Pierpoint St., Harrisville, W. Va.	Carnegie Natural Gas Co., Union District, Ritchie County, W. Va.	20.0	15.325
CI67-254 A 8-29-66	do	do	20.0	15.325
CI67-255 A 8-29-66	do	do	20.0	15.325
CI67-256 A 8-29-66	do	do	20.0	15.325
CI67-541 (CI64-781) A 10-26-66 F 10-26-66 [11]	Texas Gulf Sulphur Co. (Operator), et al., 1803 Houston Club Bldg., Houston, Tex. 77002.	Michigan Wisconsin Pipe Line Co., Jeanerette (North) Field, St. Mary Parish, La.	[12] 20.625	15.025
CI67-544 A 10-26-66	Eagle Gas Co., Lumberport, W. Va. 26386.	Cumberland & Allegheny Gas Co., North East Oakland No. 7 Field, Garrett County, Md.	[13] 20.0	15.325
CI67-546 (CI61-737) F 10-27-66	Pan American Petroleum Corp. (successor to Shell Oil Co.), Post Office Box 591, Tulsa, Okla. 74102.	Transwestern Pipeline Co., Northeast Catesby Field, Ellis County, Okla.	17.0	14.65
CI67-547 B 10-27-66	Creslenn Oil Co. (Operator), et al., 1111 Mercantile Dallas Bldg., Dallas, Tex. 75201.	Kansas-Nebraska Natural Gas Co., Inc., acreage in Logan County, Colo.	Depleted	
CI67-552 A 10-24-66	Charley Cain, Inez, Ky. 41224	United Fuel Gas Co., acreage in Martin County, Ky.	16.0	15.325
CI67-553 A 10-28-66	Douglas Whitaker, Sklar Bldg., Shreveport, La. 71102.	Texas Gas Transmission Corp., South Bayou Mallet Field, Acadia Parish, La.	16.75	15.025
CI67-554 A 10-25-66	United Mineral Development Co., 3204 Carew Tower, Cincinnati, Ohio 45202.	United Fuel Gas Co., Appalachian Gas Field, Pike County, Ky.	16.0	15.325
CI67-555 A 10-27-66	The Cove Gas Co., c/o G. E. Meabon, agent, 2610 Collis Ave., Huntington, W. Va. 25701.	United Fuel Gas Co., acreage in Lincoln County, W. Va.	16.0	15.325
CI67-556 A 10-27-66	Nine Mile Oil & Gas Co., c/o G. E. Meabon, agent, 2610 Collis Ave., Huntington, W. Va. 25701.	do	16.0	15.325
CI67-557 A 10-28-66	Irwin Miller, 805 First City National Bank Bldg., Houston, Tex. 77002.	Trunkline Gas Co., East Lake Arthur Field, Jefferson Davis Parish, La.	19.5	15.025
CI67-558 A 10-31-66	Oliver Jenkins Drilling Co., Post Office Box 869, Paintsville, Ky. 41240.	United Fuel Gas Co., acreage in Pike County, Ky.	[14] 25.0	15.523
CI67-559 B 10-31-66	Annie Norton, et al., Post Office Box 1666, Shreveport, La. 71102.	United Gas Pipe Line Co., Rodessa Field, Caddo Parish, La.	[15]	
CI67-560 A 10-31-66	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	Panhandle Eastern Pipe Line Co., Belva V Field, Woods County, Okla.	[16] 17.0	14.65
CI67-561 A 10-31-66	F. P. Schonwald Co., 900 Petroleum Club Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., South Peek Field, Ellis County, Okla.	[17] 20.4	14.65
CI67-562 A 10-31-66	Wilbur J. Holleman Trust, 805 National Bank of Tulsa Bldg., Tulsa, Okla. 74103.	Natural Gas Pipeline Co. of America, South Taloga Field, Dewey County, Okla.	17.0	14.65
CI67-563 B 10-28-66	Sun Oil Co. (Southwest Division), 1608 Walnut St., Philadelphia, Pa. 19103.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Fitzsimmons and San Diego Fields, Jim Wells and Duval Counties, Tex.	Depleted	
CI67-572 A 10-24-66	A. B. Blankenship, et al., c/o John T. Diederich, Attorney at Law, 500 Price Bldg., Ashland, Ky. 41101.	United Fuel Gas Co., acreage in Martin County, Ky.	16.0	15.325
CI67-573 A 10-24-66	do	do	16.0	15.325
CI67-574 A 10-24-66	George W. Hale, et al., c/o John T. Diederich, Attorney at Law, 500 Price Bldg., Ashland, Ky. 41101.	United Fuel Gas Co., acreage in Mingo County, W. Va.	16.0	15.325
CI67-575 A 10-31-66	Stephens Production Co., c/o W. R. Walker, Attorney in Fact, 35 South 7th St., Fort Smith, Ark. 72901.	Arkansas Louisiana Gas Co., acreage in Le Flore County, Okla.	15.0	14.65
CI67-576 B 10-31-66	Houston Natural Gas Production Co., Post Office Box 1188, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Morgan Field, San Patricio County, Tex.	Depleted	
CI67-577 A 10-31-66	Tom M. Penn d.b.a. Penntex Petroleum Co. (Operator), et al., 618 Caroline, Houston, Tex. 77002.	Trunkline Gas Co., acreage in Harris County, Tex.	15.25	14.65
CI67-578 A 10-28-66	James V. Spankard, et al., 410 Carlton House, Pittsburgh, Pa. 15219.	Consolidated Gas Supply Corp., Bell and Gaskill Townships, Jefferson County, Pa.	27.5	15.325
CI67-579 A 10-31-66	Big Sand Drilling Co., c/o John S. Holy, attorney at law, Post Office Box 643, Weston, W. Va. 26452.	Equitable Gas Co., Salt Lick District, Braxton County, W. Va.	25.0	15.325
CI67-580 A 10-31-66	Diana Goff Cather and Laura Goff Fireman, c/o Howard Caplan, attorney, Post Office Box 707, Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., Oak Mound Farm, Harrison County, W. Va.	20.0	15.325
CI67-582 B 11-1-66	Caroline Hunt Sands and Loyd B. Sands, 1401 Elm St., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla.	Depleted	
CI67-583 B 11-1-66	Shell Oil Co., 50 West 50th St., New York, N.Y. 10020.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Riverside Field, Nueces County, Tex.	Uneconomical	
CI67-584 A 11-1-66	Champlin Petroleum Co. (Operator), et al., Post Office Box 9365, Fort Worth, Tex. 76107.	Northern Natural Gas Co., West Tangier Field Area, Ellis and Woodward Counties, Okla.	[16] 17.0	14.65
CI67-586 A 11-1-66	Terteling Land Co., Post Office Box 1428, Boise, Idaho 83701.	Texas Gas Transmission Corp., Midland Field, Muhlenberg County, Ky.	17.0	15.025
CI67-587 A 11-2-66	May Petroleum, Inc., et al., 1435 Republic National Bank Bldg., Dallas, Tex. 75201.	Cities Service Gas Co., Waynoka Area, Woods County, Okla.	[18] 14.0	14.65
CI67-588 A 11-2-66	E. L. Lusher, Lavalette, W. Va. 25535.	United Fuel Gas Co., acreage in Mingo County, W. Va.	16.0	15.325
CI67-589 A 11-2-66	Standard Oil Co. of Texas, a division of Chevron Oil Co., Post Office Box 1249, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, Mobeetie (Deep) Field, Wheeler County, Tex.	17.0	14.65

See footnotes at end of table.

[1] Rate in effect subject to refund in Docket No. RI64-655.
[2] Rate in effect subject to refund in Docket No. RI64-585.
[3] Rate in effect subject to refund in Docket No. RI64-591.
[4] Rate in effect subject to refund in Docket No. RI63-467.
[5] Subject to reduction for compression charges.
[6] Rate in effect subject to refund in Docket No. RI65-35.
[7] Uneconomical for Buyer to connect to well.
[8] Application previously noticed May 17, 1966 in Docket Nos. G-3250, et al. at a total initial rate of 25.0 cents per Mcf at 15.325 p.s.i.a.
[9] Filing completed Oct. 17, 1966. Supplemental filing reflects a rate of 24.0 cents per Mcf, when deliveries are under 25 Mcf per day; 25.0 cents per Mcf, from 25 to 49 Mcf per day; 26.0 cents per Mcf, from 50 to 99 Mcf per day; 27.0 cents per Mcf, from 100 to 249 Mcf per day; 28.0 cents per Mcf, from 250 to 499 Mcf per day; 29.0 cents per Mcf, 500 Mcf or over per day at 14.73 p.s.i.a.
[10] By amendment filed Sept. 23, 1966 Applicant agreed to accept permanent certificate containing conditions similar to those imposed by Opinion No. 468, as modified by Opinion No. 468-A.
[11] A portion of the acreage for which authorization is sought was acquired from Atlantic Richfield Co.—Docket No. CI64-781.
[12] Subject to deduction (up to 2.0 cents) for compression, should Seller elect to compress.
[13] In the event Buyer pays an increased or decreased price for other gas in the vicinity of said lease, price will be increased or decreased accordingly.
[14] Includes 2.0 cents per Mcf transportation charge.
[15] Gas is no longer available in commercial quantities.
[16] Subject to upward and downward B.t.u. adjustment.
[17] Subject to upward and downward B.t.u. adjustment. Includes 3.4 cents upward adjustment.
[18] Includes three-quarter cent per Mcf for dehydration.

[F.R. Doc. 66-12532; Filed, Nov. 21, 1966; 8:45 a.m.]

[Docket No. CP67-128]

ALGONQUIN GAS TRANSMISSION CO.

Notice of Application

NOVEMBER 15, 1966.

Take notice that on November 7, 1966, Algonquin Gas Transmission Co. (Applicant), 1284 Soldiers Field Road, Boston, Mass. 02135, filed in Docket No. CP67-128 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon in place 0.67 mile of its lateral pipeline J-1 in Lexington and Arlington, Mass., and for a certificate of public convenience and necessity authorizing the construction and operation of 0.72 mile of 30-inch lateral pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the Massachusetts Department of Public Works has notified it that another portion of Massachusetts State Route 2 in Lexington and Arlington, Mass., is scheduled to be regraded, widened, and improved commencing in the summer of 1967. Applicant's lateral pipeline in this area is in the existing right of way on a revocable permit and will conflict with the proposed highway construction. Therefore, Applicant states that it is necessary for it to relocate approximately 0.67 mile of the existing lateral pipeline with approximately 0.72 mile of 30-inch lateral pipeline in the immediate area.

The estimated overall capital cost of Applicant's proposed relocation is $305,500, which cost will be financed through retained earnings.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 12, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-12572; Filed, Nov. 21, 1966; 8:45 a.m.]

[Docket No. CP67-130]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application

NOVEMBER 14, 1966.

Take notice that on November 7, 1966, Columbia Gulf Transmission Co. (Applicant), Post Office Box 683, Houston, Tex. 77001, filed a "budget-type" application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations under the Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities for the purchase and gathering of gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct during the calendar year 1967 and operate certain gas purchase facilities to take into its certificated pipeline system natural gas so purchased from producers in the general area of its system from time to time as gas becomes available.

The total estimated cost of the proposed facilities will not exceed $500,000 and no single project will exceed $125,000.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 12, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66-12574; Filed, Nov. 21, 1966; 8:45 a.m.]

[Docket No. CI67-624]

HUGOTON PRODUCTION CO.

Notice of Application

NOVEMBER 15, 1966.

Take notice that on November 8, 1966, Hugoton Production Co. (Applicant), Post Office Box 441, Garden City, Kans. 67846, filed an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon nunc pro tunc a producer sale in Stevens and Grant Counties, Kans., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The sale from this area was originally made to Panhandle Eastern Pipeline Co. in 1956 on a year to year basis until April 30, 1963, after which date such sale was continued on a short-notice basis until February 17, 1965, when such was terminated by mutual consent.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 12, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no protest or petition to intervene is filed within the time required herein, if the Commission on its

own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a protest or petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-12575; Filed, Nov. 21, 1966; 8:45 a.m.]

[Docket Nos. CS67-20 etc.]

JOHN YURONKA ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 15, 1966.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 7, 1966.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no protest or petition to intervene is filed within the time required herein, if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein, nor should it be so construed.

Docket Nos.	Date filed	Name of applicant
CS67-20	10-11-66	John Yuronka, Operator, 120-C Central Bldg., Midland, Tex. 79701.
CS67-21	10-19-66	W. C. Tyrrell Trust, c/o W. C. Tyrrell, Jr., Trustee, Post Office Box 390, Beaumont, Tex. 77704.
CS67-22	11- 3-66	E. T. Harkins, Post Office Box 4081, Midland, Tex. 79701.
CS67-23	11- 3-66	Robert F. Hicks, Post Office Box 4081, Midland, Tex. 79701.

[F.R. Doc. 66-12576; Filed, Nov. 21, 1966; 8:45 a.m.]

[Docket No. CP66-347]

MANUFACTURERS LIGHT AND HEAT CO.

Order Permitting Intervention, Prescribing Procedure and Setting Hearing Date

AUGUST 23, 1966.

Notice of application in the above-entitled case was issued May 9, 1966 (31 F.R. 7158). The final date for filing protests and petitions to intervene was June 6, 1966.

By application filed April 29, 1966, pursuant to sections 7(b) and 7(c) of the Natural Gas Act, The Manufacturers Light and Heat Co., Pittsburgh, Pa. 15219, requested a certificate of public convenience and necessity authorizing it to increase firm sales and deliveries of natural gas to its wholesale customers, and to construct and operate additional pipeline facilities in West Virginia and Pennsylvania as follows:

(1) A 3,240 horsepower compressor station on Line No. 1804 at Bruceton Mills, Preston County, W. Va.;

(2) 51.5 miles of 20-inch extension of its existing Line No. 1804 in Lancaster and Chester Counties, Pa.;

(3) 21.7 miles of 20-inch extension of its loop Line No. 10110 in Chester, Montgomery, and Bucks Counties, Pa.;

(4) 1 mile of 4-inch lateral pipeline and 4.3 miles of 6-inch lateral pipelines in Lancaster County, Pa.

Manufacturers also requested authorization to abandon the following facilities:

(5) 37.62 miles of multiple lines 138 extending a distance of 12.54 miles from Marietta to Manheim, Lancaster County, Pa.;

(6) 24.67 miles of multiple lines 138 extending a distance of 10.69 miles from Lititz to New Holland, Lancaster County, Pa.

Petitions to intervene were filed by Pennsylvania Gas and Water Co. (Penn Gas), Wilkes-Barre, Pa. 18701, on June 6, 1966, and by The United Gas Improvement Co. (UGI), Philadelphia, Pa. 19105, on July 27, 1966.

Although UGI did not file its petition to intervene within the time prescribed in the notice of application, it stated matters showing that it has a direct and substantial economic interest in this proceeding which is not adequately represented by any other party and which may be adversely affected by the Commission's action herein.

The Commission finds: Good cause has been shown to allow the petitioners named above to intervene in these proceedings in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

The Commission orders:

(A) The petitioners named above are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That their participation shall be limited to matters affecting rights and interests expressly asserted in their petitions to intervene: *And provided further,* That permission to intervene shall not be construed as recognition by the Commission that any intervener might be aggrieved by any order entered in these proceedings.

(B) A public hearing on the issues presented by the application in the above-entitled case will be held in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C., commencing at 10 a.m., on December 6, 1966.

(C) Parties who intend to present evidence shall file with the Commission and serve on all parties and the Commission's staff on or before October 3, 1966, the proposed evidence comprising their cases in chief, including prepared testimony of witnesses and exhibits.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66-12577; Filed, Nov. 21, 1966; 8:46 a.m.]

[Docket No. G-11260]

PECOS CO.

Order Amending Order Issuing Certificate of Public Convenience and Necessity, Redesignating FPC Gas Rate Schedule, Making Successor Co-Respondent, Accepting Quality Statement and Accepting Agreement and Undertaking for Filing

NOVEMBER 14, 1966.

On August 19, 1966, Pecos Co. (Petitioner) filed in Docket No. G-11260 a petition to amend the order issuing a certificate of public convenience and necessity to Hunt Oil Co. (Operator) (Hunt) in said docket by authorizing Petitioner in lieu of Hunt to continue the sale of natural gas to El Paso Natural Gas Co. (El Paso) from the Wilshire Gasoline Plant, Upton County, Tex., and further to authorize Petitioner in lieu of Hunt to continue the operation of Hunt's

formerly held 50 percent interest in the aforementioned Wilshire Gasoline Plant and the appurtenant gathering facilities and properties associated therewith, as more fully set forth in the instrument of assignment from Hunt to Petitioner dated August 1, 1966, and in the subject petition to amend.

Petitioner proposes to continue the sale of natural gas pursuant to a contract on file with the Commission as Hunt Oil Co. (Operator) FPC Gas Rate Schedule No. 31. Said rate schedule will be redesignated as that of Petitioner. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI65–74 and Petitioner has filed a motion to be made co-respondent in said proceeding and has submitted an agreement and undertaking to assure the refund of any amounts collected in excess of the just and reasonable rate determined in said proceeding. Said agreement and undertaking will be accepted for filing in the abovementioned proceeding, Petitioner will be made co-respondent in said proceeding and the proceeding will be redesignated accordingly. Hunt will be responsible for any refunds required to be made for the period prior to August 1, 1966, in Docket No. RI65–74 and Petitioner will be responsible for any refunds required thereafter.

The Commission in Opinion Nos. 468 and 468–A determined, inter alia, under section 5(a) the just and reasonable rate for the subject sale by Hunt. This determination is equally applicable to Petitioner as Hunt's successor. Such determination, however, has been stayed pending court review of the Permian opinion. The issuance of the certificate herein is without prejudice to any action the Commission may take under its Permian opinion following court review.

On April 20, 1966, Hunt submitted a quality statement subsequently adopted by Petitioner for sales proposed to be made pursuant to Petitioner's FPC Gas Rate Schedule No. 4, as so redesignated herein.[1] Said quality statement conforms with the requirements of Opinion Nos. 468 and 468–A and it shall therefore be accepted.

Because Petitioner is a wholly owned subsidiary of El Paso, the issuance of the certificate herein to Petitioner is without prejudice to any action which may be taken by the Commission in any rate proceeding involving either Petitioner or El Paso.

After due notice, no petitions to intervene, notices of intervention or protests to the granting of the petition have been received.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the order issuing the certificate of public convenience and necessity in Docket No. G–11260 be amended by authorizing Petitioner to continue in lieu of Hunt the sale of natural gas and operation of Hunt's 50 percent interest in the Wilshire Gasoline Plant, related properties and appurtenant gathering facilities.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Petitioner should be made co-respondent in the proceeding pending in Docket No. RI65–74, that said proceeding should be redesignated accordingly, and that the agreement and undertaking submitted by Petitioner should be accepted for filing.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Hunt Oil Co. (Operator) FPC Gas Rate Schedule No. 31 should be redesignated as that of Petitioner and that the related instrument of assignment and quality statement be accepted for filing.

The Commission orders:

(A) The order issuing the certificate of public convenience and necessity in Docket No. G–11260 is amended to authorize Petitioner to continue in lieu of Hunt the sale of natural gas, operation of Hunt's 50-percent interest in the Wilshire Gasoline Plant, related properties and appurtenant gathering facilities, and in all other respects said order will remain in full force and effect.

(B) Petitioner shall be a co-respondent in the proceeding pending in Docket No. RI65–74, said proceeding is redesignated accordingly,[2] and the agreement and undertaking submitted by Petitioner in said proceeding is accepted for filing.

(C) Petitioner shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder, and the agreement and undertaking submitted by Petitioner in said proceeding shall remain in full force and effect until discharged by the Commission.

(D) Hunt Oil Co. (Operator) FPC Gas Rate Schedule No. 31 is redesignated as Pecos Co. (Operator) FPC Gas Rate Schedule No. 4. The Assignment dated August 1, 1966, is accepted for filing as of that date and is designated as Supplement No. 8 to Pecos Co. (Operator) FPC Gas Rate Schedule No. 4. The quality statement filed April 20, 1966, is accepted for filing and is designated as Supplement No. 9 to Pecos Co. (Operator) FPC Gas Rate Schedule No. 4.

(E) The authorization issued herein is without prejudice to any action which the Commission may take in any future rate proceeding involving either Petitioner or El Paso, or in the Permian proceeding following court review thereof.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 66–12578; Filed, Nov. 21, 1966; 8:46 a.m.]

[1] Formerly Hunt Oil Co. (Operator) FPC Gas Rate Schedule No. 31.

[2] Hunt Oil Co. (Operator) and Pecos Co. (Operator).

[Docket No. CS67–4, etc.]

M. B. RUDMAN ET AL.

Findings and Order After Statutory Hearing Issuing Small Producer Certificates of Public Convenience and Necessity, Severing and Terminating Proceeding, and Terminating Certificate

NOVEMBER 14, 1966.

Each Applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the applications and below.

Applicant in Docket No. CS67–4 has heretofore been authorized in Docket No. CI65–930 to sell gas from the Permian Basin area. Said authorization also includes sales from the interests of Applicant in Docket No. CS67–5. The certificate issued in Docket No. CI65–930 has not been accepted and no sales pursuant thereto have been made. Therefore, said certificate will be terminated and the related rate schedule canceled. Other Applicants herein have not been authorized to sell gas from the Permian Basin area. Therefore, all of the small producer certificates issued herein shall be effective on the date of initial delivery.

After due notice no petition to intervene, notice of intervention or protest to the granting of the applications has been received.

At a hearing held on November 9, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is or will be engaged in the sale of natural gas in interstate commerce subject to the jurisdiction of the Commission and each Applicant is or upon commencement of service will be a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein and in the Appendix hereto, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act

and the requirements, rules, and regulations of the Commission thereunder.

(4) Applicants are or will be independent producers of natural gas who are not affiliated with natural gas pipeline companies and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10,000,000 Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefor should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the proceeding pending in Docket No. CI65–930 should be severed from the proceeding pending in Docket No. CP64–211, et al., that the certificate issued in Docket No. CI65–930 should be terminated and that the related FPC gas rate schedule should be canceled.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by Applicants from the Permian Basin area of Texas and New Mexico, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described below and in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission, and particularly,

(a) The subject certificates shall be applicable only to all previous and all future "small producer sales", as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act, from the Permian Basin area,

(b) Sales shall not be at rates in excess of those set forth in § 157.40(b)(1) of the regulations under the Natural Gas Act, and

(c) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because Applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination Applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms and conditions of this order is observed, the small producer certificates will still be effective as to those sales already included thereunder.

(D) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against the respective Applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts, particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The proceeding pending in Docket No. CI65930 is severed from the proceeding pending in Docket No. CP64–211, et al.; the certificate heretofore issued in Docket No. CI65–930 is terminated; and M. B. Rudman, et al., FPC Gas Rate Schedule No. 3 is canceled.

(F) The certificates issued herein shall be effective on the date of initial delivery.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.
CS67–4 8–4–66	M. B. Rudman	3	CI65–930,[1]
CS67–5 8–4–66	Raymond A. Williams, Jr.	[2]	[2].
CS67–6 8–12–66	Kermit Oil Co.		
CS67–7 8–15–66	W. Stewart Boyle, et al.		
CS67–14 8–10–66	English Jackson, Inc., et al.		
CS67–17 10–7–66	Jack O. McCall		
CS67–18 9–20–66	Meadeo Properties, Ltd., et al.		
CS67–19 10–11–66	N. S. Marrow		

[1] Certificate issued in the proceeding in Docket No. CP64–211, et al., and not accepted by Applicant.

[2] Authorization has heretofore been issued in Docket No. CI65–930 to sell gas from Applicant's interests pursuant to M. B. Rudman, et al., FPC Gas Rate Schedule No. 3.

[F.R. Doc. 66–12579; Filed, Nov. 21, 1966; 8:46 a.m.]

[Docket No. CP67–133]

SOUTHEASTERN INDIANA NATURAL GAS CO., INC., AND TEXAS GAS TRANSMISSION CORP.

Notice of Application

NOVEMBER 15, 1966.

Take notice that on November 8, 1966, Southeastern Indiana Natural Gas Co., Inc. (Applicant), Milan, Ind. 47031, filed in Docket No. CP67–133 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Texas Gas Transmission Corp. (Respondent) to establish physical connection of its transmission facilities to be constructed by Applicant and to sell and deliver volumes of gas to Applicant for resale and distribution, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant seeks an order directing Respondent to make physical connection of its transmission facilities with the facilities to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution in the towns of Milan, Moores Hill, and Versailles, Ind., and environs, located in Dearborn and Ripley Counties, Ind.

The estimated third year peak day and annual requirements of Applicant's proposed service are 1,443 Mcf and 129,861 Mcf, respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 12, 1966.

GORDON M. GRANT, *Acting Secretary.*

[F.R. Doc. 66–12580; Filed, Nov. 21, 1966; 8:46 a.m.]

[Docket No. CP66–346]

SOUTH TEXAS NATURAL GAS GATHERING CO. AND TRUNKLINE GAS CO.

Notice of Petition To Amend

NOVEMBER 15, 1966.

Take notice that on November 7, 1966, South Texas Natural Gas Gathering Co. (Petitioner South Texas), Post Office Drawer 521, Corpus Christi, Tex. 78403, and Trunkline Gas Co. (Petitioner Trunkline), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP66–346 a petition to amend the order issued in said docket on August 19, 1966, by requesting authorization to construct and operate certain measuring and appurtenant facilities and to increase the volumes of natural gas to be exchanged, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued on August 19, 1966, in the instant proceeding Petitioners were granted authorization to make ex-

changes of up to 15,000 Mcf of gas per day.

Petitioners specifically request that the abovementioned order be amended by authorizing an increase in the volumes of natural gas to be exchanged from 15,000 Mcf per day to 35,000 Mcf per day and by authorizing construction and operation of a new point of exchange between Petitioners in Brazoria County, Tex. In addition Petitioners seek another point of exchange in Beauregard Parish, La. Petitioner South Texas also seeks authorization for the purchase of gas from Bradco Oil and Gas Co., et al. (Bradco), in Calcasieu Parish, La., which gas will be exchanged with Petitioner Trunkline at the new point of delivery in Beauregard Parish, La.

Bradco will pay for the metering and regulating facilities at the additional delivery point in Beauregard Parish, La., and Petitioner Trunkline will furnish a valve and tap at such additional delivery point. The total estimated cost of jurisdictional facilities to be built by Petitioner Trunkline is $18,077.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 12, 1966.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-12581; Filed, Nov. 21, 1966; 8:46 a.m.]

[Docket No. CP64-5]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Petition To Amend

NOVEMBER 15, 1966.

Take notice that on November 8, 1966, Texas Eastern Transmission Corp. (Petitioner), Post Office Box 2521, Houston, Tex. 77001, filed in Docket No. CP64-5 a petition to amend the order issued in said docket on October 28, 1964, as amended on April 5, 1965, and August 24, 1965, by requesting authorization to sell additional volumes of natural gas to certain customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued on October 28, 1964, in the instant proceeding Petitioner was authorized to construct and operate additional facilities to its pipeline system to provide additional peak capacity to meet the increased requirements of its customers over a 4-year period. Petitioner seeks authority herein to use a part of the unallocated capacity of the abovementioned order to serve certain customers.

Petitioner, therefore, requests that the order of October 28, 1964, be amended by authorizing Petitioner to sell on a long-term basis 25,909 Mcf of natural gas per day to the East Ohio Gas Co., The Peoples Natural Gas Co., Consolidated Gas Supply Corp., and The River Gas Co. and to sell an additional 1,224 Mcf of natural gas per day to the city of Somerset, Ky.

No new facilities are required to effectuate the proposed deliveries, which will be met through the use of unallocated capacity of facilities authorized by the order of October 28, 1964.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (§ 157.10) on or before December 12, 1966.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-12582; Filed, Nov. 21, 1966; 8:46 a.m.]

[Docket No. CP67-137]

TOWN OF BROOKLYN, IOWA, AND NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

NOVEMBER 15, 1966.

Take notice that on November 10, 1966, the town of Brooklyn, Iowa (Applicant), filed in Docket No. CP67-137 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Natural Gas Pipeline Company of America (Respondent) to establish physical connection of its facilities with the facilities to be constructed by Montezuma, Iowa (Montezuma), and to sell and deliver volumes of natural gas for resale and redelivery by Montezuma to Applicant which will then resell and distribute the gas in Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Concurrent with this application, Montezuma has filed in Docket No. CP67-136 an application for an order of the Commission directing Respondent to sell and deliver to it volumes of natural gas for resale and distribution in Montezuma. It is proposed that the Hawkeye Service Co. (Hawkeye) should construct a lateral line extending from a Montezuma delivery point to Applicant's town border. Hawkeye will purchase from Montezuma the gas intended for Applicant and will resell such gas to Applicant for resale and distribution.

Specifically, Applicant requests that Respondent sell and deliver to Montezuma volumes of natural gas for redelivery and resale to Hawkeye which will in turn resell and redeliver such gas to Applicant for resale through Applicant's new distribution system.

Applicant's total estimated third year peak day and annual requirements are 818 Mcf and 120,310 Mcf respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 14, 1966.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-12583; Filed, Nov. 21, 1966; 8:46 a.m.]

[Docket No. CP67-136]

TOWN OF MONTEZUMA, IOWA, AND NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

NOVEMBER 15, 1966.

Take notice that on November 10, 1966, the town of Montezuma, Iowa, filed in Docket No. CP67-136 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Natural Gas Pipeline Company of America (Respondent) to establish physical connection of its facilities with the facilities to be constructed by Applicant and to sell and deliver to Applicant volumes of natural gas for resale and distribution, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate a municipal gas distribution system within its town borders and a lateral line of sufficient length to transport its own gas requirements as well as those of the nearby town of Brooklyn, Iowa, from the interconnection with Respondent's main transmission line to Applicant's town border. The town of Brooklyn, Iowa, has concurrently filed in Docket No. CP67-137 an application for an order of the Commission directing Respondent to sell gas to Applicant for redelivery to Brooklyn.

Specifically, therefore, Applicant requests that Respondent be ordered to sell and deliver volumes of natural gas for resale and distribution in Applicant and Brooklyn, Iowa.

The estimated third year peak day and annual requirements of Applicant alone are 843 Mcf and 148,080 Mcf respectively.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before December 14, 1966.

GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 66-12584; Filed, Nov. 21, 1966; 8:46 a.m.]

[Docket No. G-3699, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Findings and Order; Correction

OCTOBER 12, 1966.

Atlantic Richfield Co. et al., Docket Nos. G-3699, etc., George R. Brown, Docket No. G-12015 (G-17314), Petroleum Corp. of Texas (Operator), et al., Docket No. CI61-1157 (RI60-13), Cenard

Oil & Gas Co., Docket No. CI66–1276, Texaco Inc., Docket No. CI67–96.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, amending certificates, permitting and approving abandonment of service, terminating certificate, terminating rate proceeding, substituting respondent, making successors co-respondents, redesignating proceedings, making rate change effective, accepting agreements and undertakings for filing, accepting surety bond for filing, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing, issued September 19, 1966, and published in the FEDERAL REGISTER September 27, 1966 (F.R. Doc. 66–10454, 31 F.R. 12652–12659); delete "(Operator), et al." after George R. Brown in paragraph 4; paragraph (11) of the findings; ordering paragraph (W); in footnote 8 and also footnote 6 of the footnotes listed after the chart; and in the chart after Docket No. G–12015.

Correct Docket No. "CI66–1267" to read "CI66–1276".

Insert "Geo. L. Buckles, et al." in footnote 9 after Reserve Oil and Gas Co.

Insert the filing date "7–27–66" in the chart after Docket No. CI67–96.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 66–12573; Filed, Nov. 21, 1966; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

[Reg. Y]

BANK HOLDING COMPANIES

Annual Report Form

The Board of Governors is considering the adoption of a revision of Form F.R. Y–6 [1] for use by a bank holding company in submitting its annual report to the Board pursuant to section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844) and § 222.8 of this part.

This notice is published pursuant to section 553(b) of title 5, United States Code, and section 1(b) of the rules of procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.1(b)).

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of the district in which such interested person is located, to be received not later than December 5, 1966.

[1] Filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System or to any Federal Reserve Bank.

Dated at Washington, D.C., this 16th day of November 1966.

By order of the Board of Governors.

[SEAL] MERRITT SHERMAN,
Secretary.

[F.R. Doc. 66–12598; Filed, Nov. 21, 1966; 8:47 a.m.]

FEDERAL TRADE COMMISSION

GRADING AND GRADEMARKING OF SOFTWOOD LUMBER

Notice of Opportunity for Interested Parties To Present Data, Views, or Arguments and Suggestions

Notice is hereby given that the Federal Trade Commission will hold a public hearing on Wednesday, January 11, 1967, commencing at 10 a.m., e.s.t., in Room 532, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue, Washington, D.C., at which time and place all interested and affected parties may verbally present data, views, arguments, and suggestions relevant to the grading and grademarking of softwood lumber in the United States of America. Written data, views, arguments, and suggestions will also be considered if mailed to the Secretary, Federal Trade Commission, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580, on or before December 23, 1966. Persons submitting written presentations exceeding two pages should file 12 copies thereof, and persons desiring to make verbal presentations at the hearing on Wednesday, January 11, 1967, should notify the Secretary of the Commission to this effect, with an estimate of the time required for his verbal presentation, not later than December 23, 1966.

The purpose of this inquiry is to afford the Commission the benefit of the views of all concerned to assist it in reaching a determination as to what action, if any, the Commission should take in the public interest under the statutes administered by it.

To assist the Commission, information and suggestions on the following points are desired:

1. Procedures presently employed in grademarking of softwood lumber.

2. Whether in fact there exists the act or practice of misgrading, or mismarking such lumber, and if so,

3. To what extent there is a failure to grademark softwood lumber.

4. Whether these or any other practices in connection with the grading, grademarking, or failure to grademark, of softwood lumber results in deception of the American public and if so the extent of such deception.

5. Possible remedies in the public interest for any deceptive practices thus disclosed.

Interested persons are invited to submit any information pertinent to these matters or other aspects of the subject.

The data, views, or arguments presented orally or in writing will be available for examination by interested parties at the Federal Trade Commission, Washington, D.C.

The public hearing which will be held on Wednesday, January 11, 1967, will be before the full Commission.

Issued: November 21, 1966.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 66–12500; Filed, Nov. 21, 1966; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File Nos. 7–2621—7–2627]

ALLEGHENY POWER SYSTEM, INC. ET AL.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 15, 1966.

In the matter of applications of the Boston Stock Exchange, for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

Allegheny Power System, Inc., File No. 7–2621.
Fibreboard Corp., File No. 7–2622.
Household Finance Corp., File No. 7–2623.
Kayser-Roth Corp., File No. 7–2625.
Peabody Coal Co., File No. 7–2626.
Teledyne, Inc., File No. 7–2624.
Itek Corp., File No. 7–2627.

Upon receipt of a request, on or before November 30, 1966, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 66-12591; Filed, Nov. 21, 1966; 8:47 a.m.]

[811-588]

FIRST SPRINGFIELD CORP.

Notice of Application for Order Declaring That Company Has Ceased To Be an Investment Company

NOVEMBER 16, 1966.

Notice is hereby given that First Springfield Corp. ("applicant"), 100 Chestnut Street, Springfield, Mass. 01103, a Massachusetts corporation and a closed-end, nondiversified investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order declaring that it has ceased to be an investment company. All persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

At a meeting of shareholders of February 15, 1965, a plan of complete liquidation and dissolution was adopted. Pursuant to that plan, applicant has ceased transacting business as an investment company, its portfolio has been sold, all of its known liabilities have been paid, and its remaining assets have been distributed pro rata to its stockholders in cancellation of their shares. Applicant made its final distribution of assets on February 11, 1966, and now has no assets and no known liabilities. Applicant has requested the Secretary of State of Massachusetts to place it on the list of corporations to be dissolved by the Massachusetts Supreme Judicial Court.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, which may be made upon appropriate conditions necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 30, 1966, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 66-12592; Filed, Nov. 21, 1966; 8:47 a.m.]

[812-2024]

MADISON FUND, INC., AND MISSOURI-KANSAS-TEXAS RAILROAD CO.

Notice of Filing of Application

NOVEMBER 16, 1966.

Notice is hereby given that Madison Fund, Inc. ("Madison"), 660 Madison Avenue, New York, N.Y. 10021, a Delaware corporation registered as a closed-end management investment company under the Investment Company Act of 1940 ("Act"), and the Missouri-Kansas-Texas Railroad Co. ("Katy"), 701 Commerce Street, Dallas, Tex. 75202, a Delaware corporation, have filed a joint application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act the purchase by Madison from Katy of 7 percent Convertible Collateral Trust Bonds ("Convertible Bonds"), due January 1, 1977. Madison also has applied for an order pursuant to section 17(d) of the Act and Rule 17d-1 thereunder for an order permitting a joint arrangement between Madison and National Industries, Inc. ("National"), a Kentucky corporation, regarding their respective commitments to Katy to purchase certain amounts of the Convertible Bonds. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Madison and National own, respectively, 13.3 percent and 16.8 percent of the total number of Katy shares outstanding. Madison and National are therefore affiliated persons of Katy. Madison also owns $5,291,000 Subordinated Income Debentures of Katy which cost Madison $1,889,709.

Katy does not have sufficient funds to meet the maturity of 5 percent Adjustment Mortgage Bonds Series A ("Mortgage Bonds") in the amount of $4,699,865 due January 1, 1967. The only way that Katy can raise money to pay the Mortgage Bonds is to issue the Convertible Bonds. Katy proposes to obtain $4,041,000 to be applied toward payment of the said Mortgage Bonds on maturity, by offering Convertible Bonds in that amount to Katy stockholders for subscription at 100 percent of the principal amount thereof on a nonunderwritten basis. Any Convertible Bonds not subscribed for by stockholders will be offered to the public for sale at 100 percent of the principal amount thereof or higher plus accrued interest by means of competitive bidding.

Madison and National have separately agreed with Katy that between them they will purchase Convertible Bonds not purchased by others, up to a maximum of $3,900,000. National's agreement is that if Madison's purchases exceed $3 million, National will purchase one-half of the balance not purchased by others up to a maximum commitment of $450,000 on its part. Madison's commitment is for $3,450,000.

Mr. Bernard H. Barnett is Chairman of the Board of National and is also a director of Madison and of Katy. Because Mr. Barnett and members of his family own approximately 5.7 percent of the total number of National's outstanding voting shares, National is an affiliated person of Mr. Barnett who is, because of his directorship, an affiliated person of Madison.

Section 17(a) of the Act, as here pertinent, may be deemed to prohibit Katy from borrowing from Madison or from selling any security to Madison unless the Commission upon application pursuant to section 17(b) grants an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned, and that it is consistent with the general purposes of the Act.

The proposed transactions may be deemed to constitute transactions in which Madison and National, an affiliated person of an affiliated person of Madison, are joint or joint and several participants within the meaning of section 17(d) and Rule 17d-1 thereunder. Section 17(d) and Rule 17d-1 prohibit an affiliated person of an affiliated person of a registered investment company acting as principal to effect any transaction in which such registered company is a joint or a joint and several participant with such affiliated person of an affiliated person unless the Commission, upon application under Rule 17d-1, grants such application. Rule 17d-1 states that the Commission shall consider, in passing upon such application, whether the participation of such registered investment company in such joint enterprise on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Madison states that an unaffiliated third party has agreed to purchase from Medison up to a maximum of $2 million principal amount of the Convertible Bonds which Madison purchases from

Katy, at the same price Madison pays for such bonds. Madison has requested on behalf of the third party that such party's identity be accorded confidential treatment pursuant to section 45(a) of the Act on the ground that such information is not relevant to the application. The third party has also agreed to purchase from Madison $3 million principal amount of Katy's 5½ percent Subordinated Income Debentures due 2033 and owned by Madison, at the weighted average price at which such Debentures are traded on the New York Stock Exchange during the period between September 6, 1966, and the date Madison purchases the Convertible Bonds, subject to a maximum of 34 and a minimum of 30. On October 14, 1966, the closing bid price of the Debentures was 24. Madison contends that by reason of its agreement with the third party its commitment to Katy will involve an additional investment of Madison in Katy of only $550,000.

Madison's Board of Directors has determined that to protect Madison's investment in Katy it is essential that Katy be in a position to pay the Mortgage Bonds on maturity to prevent a reorganization in which Madison's common stock investment, and possibly the Subordinated Income Debentures, would most likely be worthless. The Convertible Bonds will be senior to the Income Debentures in the event of insolvency on the part of Katy. The Convertible Bonds are convertible into Common Stock of Katy at the rate of $9 principal amount of bonds for each share of common stock. The price range of Katy common stock varied during 1965 from a low of 6¼ to a high of 11⅞. During 1966, the stock ranged between a high of 13⅞ in February and a low of 4¾ in October. As of November 3, 1966, the stock was quoted at 5½.

The Board of Directors of Madison, considering the adverse consequences to Madison of a reorganization of Katy, the third party's agreement to purchase $2 million of the Convertible Bonds from Madison and as part of the same transaction to purchase $3 million of Katy's Income Debentures owned by Madison, the interest rate of 7 percent on the Convertible Bonds and the conversion price of $9, has determined that a resultant maximum purchase by Madison of $1,450,000 of Convertible Bonds, amounting to an additional investment of $550,000 of Madison in Katy, is prudent and proper.

Madison and Katy therefore represent that the necessary statutory requirements for granting the requested exemptive orders exist.

Notice is further given that any interested person may, not later than November 30, 1966, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Madison and Katy at the addresses stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after such date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 66–12593; Filed, Nov. 21, 1966; 8:47 a.m.]

[File No. 1–4371]

WESTEC CORP.

Order Suspending Trading

NOVEMBER 16, 1966.

The common stock, 10 cents par value, of Westec Corp., being listed and registered on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Westec Corp., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 17, 1966, through November 26, 1966, both dates inclusive.

By the Commission.

[SEAL] NELLYE A. THORSEN, *Assistant Secretary.*

[F.R. Doc. 66–12594; Filed, Nov. 21, 1966; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 17, 1966.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 40793—*Iron or Steel Articles to Gulfport, Miss.* Filed by O. W. South, Jr., agent (No. A4959), for interested rail carriers. Rates on iron or steel plate or sheet, noibn, in carloads, from Alton, East St. Louis, Federal and Granite City, Ill., to Gulfport, Miss.

Grounds for relief—Market competition.

Tariff—Supplement 85 to Southern Freight Association, agent, tariff ICC S–502.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–12607; Filed, Nov. 21, 1966; 8:48 a.m.]

[Notice 288]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 17, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 119864 (Sub-No. 37 TA), filed November 14, 1966. Applicant: HOFER MOTOR TRANSPORTATION CO., 26740 Eckel Road, Perrysburg, Ohio 43551. Applicant's representative: Dale K. Craig (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes as follows: *Matches, wooden or paper, when in combined shipments with canned or preserved foodstuffs, vegetable oil shortening, and cooking or salad oil*, with the weight of the matches not to exceed 25 percent of the total weight of the shipment, from the plantsite and storage facilities utilized by Hunts Foods and Industries, Inc., located at Willis Day Industrial Park, near Rossford, Ohio, which is in the commercial zone of the city of Toledo, Ohio, to points in Indiana, restricted to shipments originating in the plantsite and storage facilities utilized

by Hunts Foods and Industries, Inc., at Toledo, Ohio, and destined to points in Indiana, for 180 days. NOTE: Applicant already has the authority to transport all of the above items to points in Indiana from Rossford, Ohio, with the exception of matches, wooden or paper. Supporting shipper: Hunt Foods and Industries, Inc., 1645 West Valencia Drive, Fullerton, Calif. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 125608 (Sub-No. 5 TA), filed November 14, 1966. Applicant: VALER LUPU, doing business as VALER TRANSPORTATION COMPANY, 18615 Dix Avenue, Melvindale, Mich. Applicant's representative: Frank J. Kerwin, Jr., 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Malt beverages*, from Evansville and South Bend, Ind., to Detroit, Mich., under a continuing contract with Hamtramck Distributors of Hamtramck, Mich., and Central Distributors of Pfeiffer & Budweiser Beer of Detroit, Mich., for 180 days. Supporting shippers: Hamtramck Distributors, 11618 Sobieski Avenue, Hamtramck, Mich. 48212; Central Distributors of Pfeiffer & Budweiser Beer, 795 South Oakwood Boulevard, Detroit, Mich. 48217. Send protests to: District Supervisor Gerald J. Davis, Bureau of Operations and Compliance, 1110 Broderick Tower, 10 Witherell, Detroit, Mich. 48226.

No. MC 125708 (Sub-No. 66 TA), filed November 14, 1966. Applicant: HUGH MAJOR, 150 Sinclair Avenue, South Roxana, Ill. 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Lumber, pallets, and forest products*, from McLeansboro, Ill., to Toledo and Perrysburg, Ohio, for 150 days. Supporting shipper: John G. Baldwin Co., McLeansboro, Ill. 62859. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 126427 (Sub-No. 4 TA), filed November 14, 1966. Applicant: PALMER TRANSPORTATION, INC., Chester, N.Y. 10918. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, as follows: *Cider*, in bulk, in tank vehicles, from Highland, N.Y., to East Northport, Long Island, N.Y., for 120 days. Supporting Shipper: Oak Tree Farm Dairy, Inc., East Northport, Long Island, N.Y. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, 215–217 Post Office Building, Binghamton, N.Y. 13902.

No. MC 126835 (Sub-No. 10 TA), filed November 14, 1966. Applicant: EDGAR BISCHOFF, doing business as CASKET DISTRIBUTORS, Rural Route 5, Brookville, Ind. 47012. Applicant's representative: Jack B. Josselson, Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Caskets, casket displays, and funeral supplies* when moving with caskets being transported, from Cincinnati, Ohio, to New York, N.Y.; Catasaqua, Pa.; East Haven, Conn.; Southington, Conn.; Providence, R.I.; Fall River, Mass.; Sioux Falls, S. Dak.; Fargo, N. Dak.; Sioux City, Iowa; Hastings, Nebr.; Oklahoma City, Okla.; Denver, Colo.; Fort Smith, Ark.; Little Rock, Ark.; Kansas City, Mo.; Dade County, Fla.; St. Petersburg, Fla., for 150 days. Supporting shipper: The Crane and Breed Casket Co., 1231 West Eighth Street, Cincinnati, Ohio 45203. Send protests to: District Supervisor R. M. Hagerty, Bureau of Operations and Compliance, Interstate Commerce Commission, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 127833 (Sub-No. 3 TA), filed November 14, 1966. Applicant: T. L. MYDLAND TRUCK LINE, INC., Post Office Box 10086, New Orleans, La. 70121. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Nonalcoholic beverages*, in cans, from Gretna, La., to Center, Crockett, El Campo, Henderson, Jacksonville, Longview, Marshall, Nacogdoches, Lufkin, Texarkana, Tyler, Pittsburg, and Victoria, Tex.; Memphis, Tenn.; Little Rock, Camden, Pine Bluff, Hope, El Dorado, Texarkana, Monticello, Forest City, and Hot Springs, Ark.; and Gordo, Ala.; for 180 days. Supporting shipper: The Louisiana Coca-Cola Bottling Co., Ltd., Post Office Drawer 50400, 1050 South Jefferson Davis Parkway, New Orleans, La. 70150, Mr. Fred E. Lind, Vice President. Send protests to: William R. Atkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations and Compliance, T–4009 Federal Office Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 128687 TA, filed November 14, 1966. Applicant: LEO C. TAYLOR, 2711 Manheim Road, Des Plaines, Ill. 60018. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as follows: *Malt beverages*, from Milwaukee, Sheboygan, and La Crosse, Wis., St. Louis, Mo., and Fort Wayne, Ind., to Chicago, Ill., and *empty bottles and containers*, on return movements, for 180 days. Supporting shipper: Charter Beers of America, Inc., 3040 West 21st Place, Chicago, Ill. Send protests to: William E. Gallagher, District Supervisor, Interstate Commerce Commission, 1086 U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill. 60604.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 66–12608; Filed, Nov. 21, 1966; 8:48 a.m.]

[Investigation and Suspension Docket No. M–20877 (Sub-No. 1)]

CALIFORNIA, ARIZONA, NEW MEXICO, TEXAS

Increased Rates and Charges

Present: Howard Freas, Commissioner, to whom the matters which are the subject of this order have been assigned for action thereon.

It appearing, that by orders of the Commission, Board of Suspension, dated September 29 and 30, 1966, in the above-entitled proceedings, respectively, investigations were instituted into and concerning the lawfulness of the rates, charges, and regulations contained in schedules described in said orders;

It further appearing, that under section 216(g) of the Interstate Commerce Act respondents have the burden of proof to show that the proposed changed rates, charges, and regulations are just and reasonable;

And it further appearing, that in order that consideration be given to all factors which may bear upon a proper determination of the issues, including the question whether the resulting revenues would be just and reasonable, it is deemed appropriate in the public interest and pursuant to section 216(i) of the act that the information specified below be included in the record to be developed in these proceedings;

And good cause appearing therefor:

It is ordered, That respondents be, and they are hereby, notified and required to submit information and supporting data which shall include, among other things, actual cost and revenue data (including anticipated revenue to show the effect of the proposed increase or decrease) and operating ratios specifically related to the traffic and territories involved, overall operating ratios, detailed data to establish the representative nature of the carriers used, and detailed data to disclose carrier-affiliate financial and operating relationships and transactions, as generally indicated by the admonitions in General Increase—Middle Atlantic and New England Territories, 319 ICC 168, and in General Increases—Transcontinental, 319 ICC 792, and in addition all pertinent evidence and supporting data for the individual representative carriers as they relate to their overall operations and specifically to the traffic and territories involved.

It is further ordered, That the Commission will take official notice of all the respondent carriers' financial statements on file with the Commission.

It is further ordered, That the detailed data required to be submitted by respondents regarding carrier-affiliate financial and operating relationships and transactions shall include, with respect to any and all individuals, partnerships, and corporations affiliated with respondents, the following information:

1. Name of each affiliate from which respondent, during the year 1966, acquired, leased, or purchased lands, buildings, equipment, materials, supplies, parts, tires, tubes, gasoline, oil, or other

property or services used by respondent in its operations as a motor common carrier.

2. Kinds of property or service which each affiliate supplies to respondent.

3. Basis of charges for property or services supplied by affiliate to respondent, including the base and rate for rental charges.

4. Total charges by each affiliate to respondent during year 1966 for:

a. Lease of vehicles.

b. Lease of terminals.

c. Lease of other property.

d. Pickup and delivery of shipments.

e. Repair and servicing of vehicles.

f. Management, accounting, financial, legal, purchasing, or traffic solicitation services.

g. Property sold by affiliate to respondent.

5. If the affiliate derives revenue from the sale or lease of property or from services through transactions with persons other than respondent, indicate the percentage of the revenue of such business to the total revenue of the affiliate in the year 1966.

6. The detailed data regarding carrier-affiliate financial and operating relationships and transactions required herein may be limited to the class I and II motor carrier respondents which are members of Interstate Freight Carriers Conference, Inc., or Arizona Motor Tariff Bureau, Inc., participating in the tariffs under investigation when such transactions individually or in the aggregate amount to $2,500 or more during the year 1966.

7. A copy of the income statements for each affiliate for the year 1966 and the latest period of 1967 for which an income statement is available where the carrier-affiliate financial or operating transactions fall within the provisions of paragraph 6 above.

8. A statement listing the amounts of wages, salaries, bonuses, and other compensation paid by the affiliate in 1966 to any individual who is also a respondent or an officer, director, or substantial stockholder of a respondent; or the wife or close relative of a respondent or officer, director, or substantial stockholder of a respondent.

9. The term "affiliate" as used in this order means:

a. Any individual who is also a respondent; an officer, director, or substantial stockholder of a respondent; or the wife or close relative either of a respondent, or of an officer, director, or substantial stockholder of a respondent.

b. Any partnership in which one of the partners is a respondent; an officer, director, or substantial stockholder of a respondent; or the wife or close relative either of a respondent or of an officer, director, or substantial stockholder of a respondent.

c. Any corporation whose stock is wholly or partly owned by a respondent; by an officer, director, or substantial stockholder of a respondent; or by the wife or close relative either of a respondent or of an officer, director, or substantial stockholder of a respondent.

d. Any corporation which exercises control over the operations or finances of respondent.

It is further ordered, That the traffic studies to be submitted shall be based upon actual operations conducted during identical periods of time for each carrier, and the actual cost studies shall be based upon the operations of the same carriers as used in the traffic studies; and that the periods of time selected for, as well as the motor carriers used in, such cost and traffic studies shall be shown to be representative and their selection statistically sound;

It is further ordered, That all of the required data specified in this order shall be based upon and reflect at least the most recent annual reporting period;

It is further ordered, That the detailed information called for by this order with respect to carrier-affiliates shall be in writing and shall be verified by a person or persons having knowledge thereof, and a verified original and two additional copies, shall be mailed to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, in sufficient time to reach the Commission on or before February 6, 1967; and, in addition, that this information is to be introduced into evidence by respondents but may be in summary form, if so desired, cf. Surcharge on Small Shipments Within Central States, 63 M.C.C. 157;

It is further ordered, That:

(1) The respondents and interveners in support thereof shall serve on the parties of record on or before February 6, 1967, their direct evidence in the form of verified statements (with appendices, if any); and that they also, at the same time, shall mail two copies to this Commission, one copy to the Hearing Examiner hereinafter named, together with certificates of service in accordance with Rule 1.22(a) of the general rules of practice; and the executed original shall be tendered at the hearing;

(2) The protestants and interveners in support thereof shall serve on the parties of record on or before March 6, 1967, their evidence in the form of verified statements (with appendices, if any); and that they shall comply also with the provisions in the preceding paragraph regarding the mailing and service of statements;

(3) These proceedings be, and they are hereby, referred to Hearing Examiner Joseph T. Fittipaldi for hearing on April 3, 1967, at 9:30 a.m., U.S. standard time at the Federal Building, 300 North Los Angeles Street, Los Angeles, Calif., for the purpose of receipt in evidence of the verified statements, cross-examination thereon if requested, and the introduction of rebuttal evidence, and to permit the Hearing Examiner to close the record;

(4) Protestants desiring to cross-examine witnesses who have submitted verified statements may give notice in writing of such request to affiant and his counsel, if any, on or before March 6, 1967;

(5) Respondents desiring to cross-examine witnesses who have submitted verified statements may give notice in writing of such request to affiant and his counsel, if any, on or before March 27, 1967;

(6) Copies of requests for cross-examination shall be filed simultaneously with this Commission and the Hearing Examiner. Failure of any witness whose attendance is requested to appear at the hearing for cross-examination shall be considered good cause for the rejection of his verified statement;

(7) All underlying data used in the preparation of evidence set forth in the verified statements (with appendices, if any) shall be made available in the office of the party serving such verified matter during usual office hours for inspection by any party of record desiring to do so; and that underlying data shall be made available also at the hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination;

(8) Anyone desiring to become a party of record and to participate in the hearing, and receive and/or serve copies of the evidence to be filed in accordance with the procedure set forth above, must notify the Commission, in writing, on or before January 16, 1967, a copy of such notification to be filed simultaneously with the Hearing Examiner. As soon as practicable after such date a service list of all parties of record will be prepared and served by the Commission;

(9) Evidence presented which fails to conform to the above-outlined procedure will not become a part of the record in these proceedings.

It is further ordered, That a copy of this order be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

And it is further ordered, That, to avoid future unnecessary service upon those respondents who, although participating carriers in the tariff schedules which are the subject of investigation herein, are not actively interested in the outcome of such investigation, subsequent service on respondents herein of notices and orders of the Commission will be limited to those respondents who:

(1) Have been identified by name in the order or orders of investigation herein,

(2) Specifically make written request to the Secretary of the Commission to be included on the service list, or

(3) Have appeared at a hearing.

Dated at Washington, D.C., this 7th day of November A.D. 1966.

By the Commission, Commissioner Freas.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-12609; Filed, Nov. 21, 1966; 8:49 a.m.]

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Tuesday, November 22, 1966 • Washington, D.C.

PART II

Department of Health, Education, and Welfare

•

Social Security Administration

•

Health Insurance Program for the Aged

•

Principles of Reimbursement for Provider Costs and for Services by Hospital-based Physicians

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965—_)

Principles for Reimbursable Costs

On June 2, 1966, there was published in the FEDERAL REGISTER (31 F.R. 7864) a notice of proposed rule making relating to the principles for reimbursement for provider costs for covered services furnished to beneficiaries under title XVIII of the Social Security Act (20 CFR Part 405). Interested persons were given the opportunity to submit written comments within 30 days after publication.

Written submissions were received and considered. Certain changes were made in the proposed regulations pursuant to these comments. The following changes are considered to be the most important.

(1) A new paragraph (g) discussing the method for determining cost basis for facilities purchased after July 1, 1966, has been added to § 405.415.

(2) Section 405.419 (b) and (c) has been changed to recognize, as cost, interest paid to partners, stockholders, and related organizations on certain loans.

(3) Section 405.424 has been changed to include services of voluntary workers generally in determining the value of voluntary services.

(4) Section 405.427(c) has been changed to provide an exception to the general principle on establishing costs where services are furnished by related organizations.

(5) Section 405.428(b) has been changed to remove the limitation on the 2 percent allowance in lieu of specific recognition of other costs and to indicate that in the case of proprietary facilities the percentage is 1½ percent.

(6) Section 405.429 has been added to provide an allowance for a reasonable return on equity capital as a cost of covered services furnished by proprietary facilities.

Accordingly, Subpart D of Part 405, Title 20, Code of Federal Regulations is amended by the addition of the rules set forth below. The addition to Subpart D of Part 405, Title 20, shall be effective upon publication in the FEDERAL REGISTER.

Dated: November 15, 1966.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 15, 1966.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

Sec.

AUTHORITY: §§ 405.401–405.454 issued under secs. 1102, 1814(b), 1861(v), and 1871, 49 Stat. 647, as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

§ 405.401 Introduction.

(a) Under the health insurance program for the aged, the amount paid to any provider of services—i.e., hospital, extended care facility, or home health agency—for the covered services furnished to beneficiaries is required by section 1814(b) and section 1833(a)(2) of the Social Security Act to be the "reasonable cost" of such services.

(b) These principles of reimbursement and the related policies described in this subpart establish the guidelines and procedures to be used by institutional providers, fiscal intermediaries, and the Social Security Administration in determining reasonable cost.

(c) The principles of reimbursement are to be applied on behalf of the program by public and private organizations and agencies acting as fiscal intermediaries in the payment of claims. These organizations and agencies are selected after nomination by groups or associations of hospitals. Extended care facilities and home health agencies may similarly nominate such intermediaries. The fiscal intermediaries are responsible for paying the bills of beneficiaries for covered services received in participating hospitals and other institutions under the medicare program. A provider may deal directly with the Social Security Administration, in which case the same principles are to be used in making payment for services.

(d) In consideration of the wide variations in size and scope of services of providers and regional differences that exist, the principles are flexible on many points. They offer certain alternatives and options designed to fit individual circumstances and to allow time for those providers who do not already collect the statistical and financial data necessary for the reporting of costs to develop the necessary records.

(e) An important role of the fiscal intermediary, in addition to claims processing and payment, and other assigned responsibilities, is to furnish consultative services to providers in the development of accounting and cost-finding procedures which will assure them equitable payment under the program.

§ 405.402 Cost reimbursement; general.

(a) In formulating methods for making fair and equitable reimbursement for services rendered beneficiaries of the program, payment is to be made on the basis of current costs of the individual provider, rather than costs of a past period or a fixed negotiated rate. All necessary and proper expenses of an institution in the production of services, including normal standby costs, are recognized. Furthermore, the share of the total institutional cost that is borne by the program is related to the care furnished beneficiaries so that no part of their cost would need to be borne by other patients. Conversely, costs attributable to other patients of the institution are not to be borne by the program. Thus, the application of this approach, with appropriate accounting support, will result in meeting actual costs of services to beneficiaries as such costs vary from institution to institution.

(b) Putting these several points together, certain tests have been evolved for the principles of reimbursement and certain goals have been established that they should be designed to accomplish. In general terms, these are the tests or objectives:

(1) That the methods of reimbursement should result in current payment so that institutions will not be disadvantaged, as they sometimes are under other arrangements, by having to put up money for the purchase of goods and services well before they receive reimbursement.

(2) That, in addition to current payment, there should be retroactive adjustment so that increases in costs are taken fully into account as they actually occurred, not just prospectively.

(3) That there be a division of the allowable costs between the beneficiaries of this program and the other patients of the provider that takes account of the actual use of services by the beneficiaries of this program and that is fair to each provider individually.

(4) That there be sufficient flexibility in the methods of reimbursement to be used, particularly at the beginning of the

program, to take account of the great differences in the present state of development of recordkeeping.

(5) That the principles should result in the equitable treatment of both nonprofit organizations and profitmaking organizations.

(6) That there should be a recognition of the need of hospitals and other providers to keep pace with growing needs and to make improvements.

(c) As formulated herein, the principles give recognition to such factors as depreciation, interest, bad debts, educational costs, compensation of owners, an allowance for capital funds to secure, preserve, and improve service-rendering capabilities and an allowance for a reasonable return on equity capital of proprietary facilities. With respect to allowable costs some items of inclusion and exclusion are:

(1) An appropriate part of the net cost of approved educational activities will be included.

(2) Costs incurred for research purposes, over and above usual patient care, will not be included.

(3) Grants, gifts, and income from endowments will not be deducted from operating costs unless they are designated by the donor for the payment of specific operating costs.

(4) The value of services provided by nonpaid workers, as members of an organization (including services of members of religious orders) having an agreement with the provider to furnish such services, is includible in the amount that would be paid others for similar work.

(5) Discounts and allowances received on the purchase of goods or services are reductions of the cost to which they relate.

(6) Bad debts growing out of the failure of a beneficiary to pay the deductible, or the coinsurance, will be reimbursed (after bona fide efforts at collection).

(7) Charity and courtesy allowances are not includable, although "fringe benefit" allowances for employees under a formal plan will be includable as part of their compensation.

(8) A reasonable allowance of compensation for the services of owners in profitmaking organizations will be allowed providing their services are actually performed in a necessary function.

(d) In developing these principles of reimbursement for the health insurance program, all of the considerations inherent in allowances for depreciation were studied. The principles, as presented, provide options to meet varied situations. Depreciation will essentially be on an historical cost basis but since many institutions do not have adequate records of old assets, the principles provide an optional allowance in lieu of such depreciation for assets acquired before 1966. For assets acquired after 1965, the historical cost basis must be used. All assets actually in use for production of services for title XVIII beneficiaries will be recognized even though they may have been fully or partially depreciated for other purposes. Assets financed with public funds may be depreciated. In general, the options for accelerated depreciation allowed by the income tax laws will be permitted. Although funding of depreciation is not required, there is an incentive for it since income from funded depreciation is not considered as an offset which must be taken to reduce the interest expense that is allowable as a program cost.

(e) An allowance for costs not specifically recognized is included as an element of allowable cost. The difficulty in measurement of certain costs, lack of adequate data, various uncertainties inherent in the application of any cost formula at the present stage of cost finding capabilities and other consideration have precluded specific recognition of various elements germane to costs of furnishing services. For all providers except proprietary institutions, the allowance in lieu of specific recognition of other costs is 2 percent of the total allowable costs, after exclusion of interest expense and this allowance. For proprietary providers the allowance in lieu of specific recognition of other costs is 1½ percent of total allowable costs after exclusion of interest expense, this allowance, and the return allowed to such providers on their equity capital.

(f) A return on the equity capital of proprietary facilities is an allowable cost in profit-making organizations. The rate of return may not exceed one and one-half times the average long-term rate of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund.

§ 405.403 Apportionment of allowable costs.

(a) Consistent with prevailing practice where third-party organizations pay for health care on a cost basis, reimbursement under the title XVIII health insurance program involves a determination of (1) each provider's allowable costs for producing services, and (2) the share of these costs which is to be borne by title XVIII. The provider's costs are to be determined in accordance with the principles reviewed in the preceding discussion relating to allowable costs; the share to be borne by title XVIII is to be determined in accordance with principles relating to apportionment of cost.

(b) In the study and consideration devoted to the method of apportioning costs, the objective has been to adopt methods for use under title XVIII of the Act that would, to the extent reasonably possible, result in the program's share of a provider's total allowable costs being the same as the program's share of the provider's total services. This result is essential for carrying out the statutory directive that the program's payments to providers should be such that the costs of covered services for beneficiaries would not be passed on to nonbeneficiaries, nor would the cost of services for nonbeneficiaries be borne by the program.

(c) A basic factor bearing upon apportionment of costs is that title XVIII beneficiaries are not a cross section of the total population. Nor will they constitute a cross section of all patients receiving services from most of the providers that participate in the program. Available evidence shows that the use of services by persons age 65 and over differs significantly from other groups. Consequently, the objective sought in the determination of the title XVIII share of a provider's total costs means that the methods used for apportionment must take into account the differences in the amount of services received by patients who are beneficiaries and other patients served by the provider.

(d) The method of cost reimbursement most widely used at the present time by third-party purchasers of inpatient hospital care apportions a provider's total costs among groups served on the basis of the relative number of days of care used. This method, commonly referred to as average per diem cost, does not take into account variations in the amount of service which a day of care may represent and thereby assumes that the patients for whom payment is made on this basis are average in their use of service.

(e) In considering the average per diem method of apportioning cost for use under the program, the difficulty encountered is that the preponderance of presently available evidence strongly indicates that the over-65 patient is not typical from the standpoint of average per diem cost. On the average he stays in the hospital twice as long and therefore the ancillary services that he uses are averaged over the longer period of time, resulting in an average per diem cost for the aged alone, significantly below the average per diem for all patients.

(f) Moreover, the relative use of services by aged patients as compared to other patients differs significantly among institutions. Consequently, considerations of equity among institutions are involved as well as that of effectiveness of the apportionment method under the program in accomplishing the objective of paying each provider fully, but only, for services to beneficiaries.

(g) A further consideration of long-range importance is that the relative use of services by aged and other patients can be expected to change, possibly to a significant extent in future years. The ability of apportionment methods used under the program to reflect such change is an element of flexibility which has been regarded as important in the formulation of the cost reimbursement principles.

(h) An alternative to the relative number of days of care as a basis for apportioning costs is the relative amount of charges billed by the provider for services to patients. The amount of charges is the basis upon which the cost of hospital care is distributed among patients who pay directly for the services they receive. Payment for services on the basis of charges applies generally under insurance programs where individuals are indemnified for incurred expense, a form of health insurance widely held throughout the Nation. Also, charges to patients are commonly a factor in determining the amount of payment to hospitals under insurance programs providing service benefits, many

of which pay "costs or charges, whichever is less" and some of which pay exclusively on the basis of charges. In all of these instances, the provider's own charge structure and method of itemizing services for the purpose of assessing charges is utilized as a measure of the amount of services received and as the basis for allocating responsibility for payment among those receiving the provider's services.

(i) An increasing number of third-party purchasers who pay for services on the basis of cost are developing methods which utilize charges to measure the amount of services for which they have responsibility for payment. In this approach, the amount of charges for such services as a proportion of the provider's total charges to all patients is used to determine the proportion of the provider's total costs for which the third-party purchaser assumes responsibility. The approach is subject to numerous variations. It can be applied to the total of charges for all services combined or it can be applied to components of the provider's activities for which the amount of costs and charges are ascertained through a breakdown of data from provider's accounting records.

(j) For the application of the approach to components, which represent types of services, the breakdown of total costs is accomplished by "cost-finding" techniques under which indirect costs and nonrevenue activities are allocated to revenue producing components for which charges are made as services are rendered.

§ 405.404 Methods of apportionment under title XVIII.

(a) The principles for reimbursement under title XVIII of the act establish two basic methods, either of which may be used at the option of a provider, for the determination of the share of allowable costs for which payment is to be made to the provider.

(b) The first alternative is to apply the beneficiaries' share of total charges, on a departmental basis, to total costs for the respective departments. Use of this department-by-department method will involve determination, by cost-finding methods, of the total costs for each of the institution's departments that are revenue-producing; i.e., departments providing services to patients for which charges are made.

(c) The second alternative is a combination method. Under this method, as applied to inpatient care, that part of a provider's total allowable cost which is attributable to routine services (room, board, nursing service) is to be apportioned on the basis of the relative number of patient days for beneficiaries and for other patients; i.e., an average cost per diem basis. The residual part of the provider's allowable cost, attributable to nonroutine or ancillary services, is to be apportioned on the basis of the beneficiaries' share of the total charges to patients by the provider for nonroutine or ancillary services. The amounts computed to be the program's share of the two parts of the provider's allowable costs are then combined in determining the amount of reimbursement under the program. Use of the combination method will necessitate cost finding to determine the division of the provider's total allowable costs into the two parts, although it would be less involved than for the first alternative, the department-by-department method.

(d) It is recognized that many hospitals and other providers do not currently employ methods for ascertaining the cost of the services they produce, either by departmental or other groupings of services. Although the use of cost finding has become more extensive among institutions in recent years, for a large number of providers use of the apportionment methods under the program will involve compiling information needed as a basis for breaking down total costs into departmental costs or between routine services and other services, as would need to be done at the end of each accounting year. To avoid an undue burden on providers and to allow ample time for all providers to adopt the cost-finding methods needed for the apportionment methods under the program, a temporary method may be used, at the option of the provider, for accounting periods ending before January 1, 1968. Under this option, a provider may employ the combination method of apportionment by using an estimated percentage obtained from the intermediary as the basis for arriving at a division of total allowable costs between routine and other services. This estimated percentage basis for division of costs will be accepted in lieu of actual cost finding as the basis for the division in the initial reporting period(s) of any provider of service. Furthermore, where there are special factors which make the apportionment methods difficult to apply, the intermediary may approve appropriate adaptations to accomplish the objective of determining the share of the provider's allowable costs which is attributable to services rendered to beneficiaries.

§ 405.405 Payments to providers.

(a) The fiscal intermediaries will establish a basis for interim payments to each provider. This may be done by one of several methods. Where an intermediary is already paying the provider on a cost basis, the intermediary can adjust its rate of payment to an estimate of the result under the title XVIII principles of reimbursement. Where no organization is paying the provider on a cost basis, the intermediary can obtain the previous year's financial statement from the provider and, by applying the principles of reimbursement, compute or approximate an appropriate rate of payment. The interim payment may be related to the last year's average per diem, or to charges, or to any other ready basis of approximating costs.

(b) At the end of the period, the actual apportionment, based on the cost finding and apportionment methods selected by the provider, will determine the title XVIII reimbursement for the actual services provided to beneficiaries during the period.

(c) Basically, therefore, interim payments to providers will be made for services throughout the year, with final settlement on a retroactive basis at the end of the accounting period. Interim payments will be made as often as possible and in no event less frequently than once a month. The retroactive payments will take fully into account the costs that were actually incurred and settle on an actual, rather than on an estimated basis.

(d) In addition to the basic procedure for payment to a provider following the submission of bills to the intermediary, payment will be made upon request by the provider on a basis designed to reimburse currently as services are furnished to beneficiaries. The amount of such payment will be computed by the intermediary initially on an estimated basis and periodically adjusted to represent the average level of services unreimbursed by the basic payment procedure.

§ 405.406 Financial data and reports.

(a) The principles of cost reimbursement will require that providers maintain sufficient financial records and statistical data for proper determination of costs payable under the program. Standardized definitions, accounting, statistics, and reporting practices which are widely accepted in the hospital and related fields are followed. Changes in these practices and systems will not be required in order to determine costs payable under the principles of reimbursement. Essentially the methods of determining costs payable under title XVIII involve making use of data available from the institution's basic accounts, as usually maintained, to arrive at equitable and proper payment for services to beneficiaries.

(b) Costs reports will be required from providers on an annual basis with reporting periods based on the provider's accounting year. In the interpretation and application of the principles of reimbursement, the fiscal intermediaries will be an important source of consultative assistance to providers and will be available to deal with questions and problems on a day-to-day basis.

§ 405.415 Depreciation: allowance for depreciation based on asset costs.

(a) *Principle.* An appropriate allowance for depreciation on buildings and equipment is an allowable cost. The depreciation must be:

(1) Identifiable and recorded in the provider's accounting records;

(2) Based on the historical cost of the asset or fair market value at the time of donation in the case of donated assets; and

(3) Prorated over the estimated useful life of the asset using the straight-line method or accelerated depreciation under the declining balance or sum-of-the-years' digits methods.

(b) *Definitions*—(1) *Historical costs.* Historical cost is the cost incurred by the present owner in acquiring the asset.

(2) *Fair market value.* Fair market value is the price that the asset would bring by bona fide bargaining between

well-informed buyers and sellers at the date of acquisition. Usually the fair market price will be the price at which bona fide sales have been consummated for assets of like type, quality, and quantity in a particular market at the time of acquisition.

(3) *The straight-line method.* Under the straight-line method of depreciation, the cost or other basis (e.g. fair market value in the case of donated assets) of the asset, less its estimated salvage value, if any, is determined first. Then this amount is distributed in equal amounts over the period of the estimated useful life of the asset.

(4) *Declining balance method.* Under the declining balance method, the annual depreciation allowance is computed by multiplying the undepreciated balance of the asset each year by a uniform rate up to double the straight-line rate.

(5) *Sum-of-the-years' digits method.* Under the sum-of-the-years' digits method, the annual depreciation allowance is computed by multiplying the depreciable cost basis (cost less salvage value) by a constantly decreasing fraction. The numerator of the fraction is represented by the remaining years of useful life of the asset at the beginning of each year, and the denominator is always represented by the sum of the years' digits of useful life at the time of acquisition.

(c) *Recording of depreciation.* Appropriate recording of depreciation encompasses the identification of the depreciable assets in use, the assets' historical costs, the method of depreciation, estimated useful life, and the assets' accumulated depreciation. The Chart of Accounts published by the American Hospital Association and publications of the Internal Revenue Service are to be used as guides for the estimation of the useful life of assets.

(d) *Depreciation methods.* (1) Proration of the cost of an asset over its useful life will be allowed on the straight-line, the declining balance, or the sum-of-the-years' digits methods. The provider may choose to use one of the methods on a single asset or group of assets and another method on others. In applying the declining balance or sum-of-the-years' digits method to an asset that is not new, the undepreciated balance of the asset is to be treated as the cost of a new asset in computing the depreciation.

(2) A provider may change from the straight-line method to an accelerated method or vice versa upon advance approval from the intermediary on a prospective basis with the request being made before the end of the first month of the prospective reporting period. Only one such change with respect to a particular asset may be made by a provider.

(e) *Funding of depreciation.* Although funding of depreciation is not required, it is strongly recommended that providers use this mechanism as a means of conserving funds for replacement of depreciable assets, and coordinate their planning of capital expenditures with areawide planning activities of community and State agencies. As an incentive for funding, investment income on funded depreciation will not be treated as a reduction of allowable interest expense.

(f) *Gains and losses on disposal of assets.* Gains and losses realized from the disposal of depreciable assets are to be included in the determination of allowable cost. The extent to which such gains and losses are includable is to be calculated on a proration basis recognizing the amount of depreciation charged under the program in relation to the amount of depreciation, if any, charged or assumed in a period prior to the provider's participation in the program.

(g) *Establishment of cost basis on purchase of facility as ongoing operation.* In establishing the cost basis for a facility purchased as an ongoing operation after July 1, 1966, the price paid by the purchaser shall be the cost basis where the purchaser can demonstrate that the sale was a bona fide sale and the price did not exceed the fair market value of the facility at the time of sale. The cost basis for depreciation of depreciable assets shall not exceed the fair market value of those assets at the time of sale. If the sale is not demonstrated to be bona fide, the seller's cost basis shall be the cost basis to the purchaser.

§ 405.416 Depreciation: optional allowance for depreciation based on a percentage of operating costs.

(a) *Principle.* With respect to all assets acquired before 1966, the provider, at its option, may choose an allowance for depreciation based on a percentage of operating costs. The operating costs to be used are the lower of the provider's 1965 operating costs or the provider's current year's allowable costs. The percent to be applied is 5 percent starting with the year 1966–67, with such percentage being uniformly reduced by one-half percent each succeeding year. The allowance based on operating costs is in addition to regular depreciation on assets acquired after 1965; however, when the optional allowance is selected, the combined amount of such allowance on pre-1966 assets and the straight-line depreciation on assets acquired or rented after 1965 may not exceed 6 percent of the provider's allowable cost for the current year.

(b) *Definitions*—(1) *Operating costs.* Operating costs are the total costs incurred by the provider in operating the institution or facility.

(2) *Allowable costs.* Allowable costs are the costs of a provider which are includable under the principles for cost reimbursement; by the application of apportionment methods to the total amount of such allowable costs, the share of a provider's total cost which is attributable to covered services for beneficiaries is determined.

(c) *Application.* Where a provider has inadequate historical cost records for pre-1966 depreciable assets, the provider may elect to receive an allowance for depreciation on such assets based on a percentage of operating costs. The optional allowance for depreciation for such assets may be used, however, whether or not a provider has records of the cost of pre-1966 depreciable assets currently in use.

(d) *Allowance based on a percentage of operating costs.* (1) The allowance for depreciation based on a percentage of operating costs is to be computed by applying a specified percentage to a base amount equal to the provider's 1965 total operating costs, without adjustments to these principles or the current year's allowable operating costs, whichever is lower. The percentage to be applied would be five for 1966–67, four and one-half for 1967–68, and would so continue to decline annually by equal amounts to become zero in 1976–77.

(2) When used as a base for determining the optional allowance for depreciation, neither the 1965 operating costs nor the current year's allowable costs are to include any actual depreciation, estimated depreciation on rented depreciable-type assets, allowance in lieu of specific recognition of other costs, or return on equity capital. Such exclusions are to be made only for the purpose of computing the allowance for depreciation based on operating costs. For other purposes, the excluded amounts are recognized in determining allowable costs and for computing the costs of services rendered to the program beneficiaries during the reporting period.

(e) *Change to actual depreciation.* (1) A provider that elects this allowance may at any time before 1976 change to actual depreciation on all pre-1966 depreciable assets. In such case, this option is eliminated and the provider can no longer elect to receive an allowance for depreciation based on a percentage of operating costs.

(2) Where the provider desires to change to actual depreciation but either has no historical cost records or has incomplete records, the determination of historical cost could be made through appropriate means involving expert consultation with the determination being subject to review and approval by the intermediary.

(f) *Determination of optional allowance based on percentage of operating costs illustrated.* The following illustrates how the provider would determine the optional allowance for depreciation based on operating costs.

Example No. 1.—The provider keeps its records on a calendar year basis. The current year's actual allowable cost and the actual operating cost for 1965 do not include any actual depreciation or rentals on depreciable-type assets. The current year's allowable cost also does not include any allowance in lieu of specific recognition of other costs or return on equity capital.

Year 1966	
Current year's allowable cost	$1,100,000
Operating cost for 1965 [1]	$1,000,000
Percent for determining the allowance	5
Allowance	$50,000

[1] 1965 operating cost was used in computing the allowance for depreciation based on a percentage of operating costs because it was lower than 1966 allowable cost.

YEAR 1967

Current year's allowable cost	$1,200,000
Operating cost for 1965 [1]	$1,000,000
Percent for determining the allowance	4½
Allowance	$45,000

[1] 1965 operating cost was used in computing the allowance for depreciation based on a percentage of operating costs because it was lower than 1967 allowable cost.

YEAR 1968

Operating cost for 1965	$1,000,000
Current year's allowable cost [1]	$900,000
Percent for determining the allowance	4
Allowance	$36,000

[1] The current year's allowable cost was used in computing the allowance for depreciation based on percentage of operating costs because it was lower than 1965 operating cost.

Example No. 2.—When the provider pays rent for depreciable-type assets rented prior to 1966, the estimated depreciation on such assets must be deducted from the allowance. The following illustration demonstrates how the allowance is determined.

The provider keeps its records on a calendar year basis. The current year's actual allowable cost and the actual operating cost for 1965 did not include any actual depreciation, allowance in lieu of specific recognition of other costs, or return on equity capital. However, such costs have been adjusted to exclude estimated depreciation on rented depreciable-type assets.

YEAR 1966

Adjusted current year's allowable cost	$1,100,000
Adjusted operating cost for 1965 [1]	$1,000,000
Percent for determining the allowance	5
Allowance	$50,000
Less estimated depreciation for depreciable-type assets rented prior to 1966 on which rental is paid in 1966	$3,000
Adjusted allowance	$47,000

[1] 1965 operating cost was used in computing the allowance for depreciation based on a percentage of operating costs because it was lower than 1966 allowable cost.

YEAR 1967

Adjusted current year's allowable cost	$1,200,000
Adjusted operating cost for 1965 [1]	$1,000,000
Percent for determining the allowance	4½
Allowance	$45,000
Less estimated depreciation for depreciable-type assets rented prior to 1966 on which rental is paid in 1967	$3,000
Adjusted allowance	$42,000

[1] 1965 adjusted operating cost was used in computing the allowance for depreciation based on a percentage of operating costs because it was lower than 1967 adjusted allowable cost.

(g) *Limitation on depreciation where optional allowance is used.* This optional allowance only is subject to a limitation based on the provider's total allowable operating cost for the current year. To determine this limitation, compute the sum of the actual depreciation claimed, the allowance based on a percentage of operating costs and the estimated straight-line depreciation on depreciable-type assets rented after 1965. If this sum exceeds 6 percent of the provider's current year's allowable cost (exclusive of any actual depreciation claimed, estimated depreciation on rented depreciable-type assests, allowance in lieu of specific recognition of other costs, and return on equity capital), the allowance for depreciation based on a percentage of operating costs will be reduced by the amount of the excess. In applying this limitation, if the actual depreciation claimed is on an accelerated basis it must be converted to a straight-line basis only for use in calculating this limitation. It is presumed that pre-1966 assets will not be retired at a greater than normal rate, and the limitation of 6 percent, as it affects the availability of the allowance, is designed as a safeguard where the presumption is not borne out. Where the provider does not elect to use the optional allowance, the combined allowance for depreciation based on costs of pre-1966 assets and those subsequently acquired is not subject to the 6-percent limitation.

Example No. 1.—The following illustration demonstrates how this limitation would be determined.

YEAR 1966

The provider keeps its records on a calendar year basis. The current year's actual allowable cost and the actual operating cost for 1965 have been adjusted to exclude actual depreciation the estimated depreciation on rented depreciable-type assets, allowance in lieu of specific recognition of other costs, and return on equity capital.

Adjusted operating cost for 1965	$1,000,000
Percent for determining the allowance	5
In 1966 assets were acquired which produce a straight-line depreciation of	$18,000
Estimated depreciation on assets rented in 1966	$2,000
Adjusted allowable operating cost for 1966	$1,100,000

Calculation of Allowance for Depreciation Based on a Percentage of Operation Costs

Gross allowance:	
5% times adjusted 1965 operating costs ($1,000,000)	$50,000
Estimated depreciation on assets rented in 1966	2,000
Straight-line depreciation on post-1965 assets	18,000
Total	70,000
6% of adjusted 1966 allowable operating cost	66,000
Deduction in allowance	4,000
Allowance	50,000
Reduction	4,000
Adjusted allowance	46,000
Total depreciation allowance for 1966 ($18,000 actual depreciation plus $46,000 allowance based on operating cost)	64,000

Assume in this illustration that the provider had elected to use the declining balance method in computing its allowable depreciation and the rental expense for depreciable-type assets was $3,500. In that case, it would include in its 1966 allowable cost not only the $46,000 allowance based on operating costs but also $36,000 (in this instance 2 × straight-line rate is used) in actual depreciation and the rental expense of $3,500—or a total of $85,000 covering all its depreciable assets.

§ 405.417 Depreciation: allowance for depreciation on fully depreciated or partially depreciated assets.

(a) *Principle.* Depreciation on assets being used by a provider at the time it enters into the title XVIII program is allowed; this applies even though such assets may be fully or partially depreciated on the provider's books.

(b) *Application.* Depreciation is allowable on assets being used at the time the provider enters into the program. This applies even though such assets may be fully depreciated on the provider's books or fully depreciated with respect to other third-party payers. So long as an asset is being used, its useful life is considered not to have ended, and consequently the asset is subject to depreciation based upon a revised estimate of the asset's useful life as determined by the provider and approved by the intermediary. Correction of prior years' depreciation to reflect revision of estimated useful life should be made in the first year of participation in the program unless the provider has used the optional method (§ 405.416), in which case the correction should be made at the time of discontinuing the use of that method. When an asset has become fully depreciated under title XVIII, further depreciation would not be appropriate or allowable, even though the asset may continue in use. For example, if a 50-year-old building is in use at the time the provider enters into the program, depreciation is allowable on the building even though it has been fully depreciated on the provider's books. Assuming that a reasonable estimate of the asset's continued life is 20 years (70 years from the date of acquisition), the provider may claim depreciation over the next 20 years—if the asset is in use that long—or a total depreciation of as much as twenty-seventieths of the asset's historical cost. If the asset is disposed of before the expiration of its estimated useful life, the depreciation would be adjusted to the actual useful life. Likewise, a provider may not have fully depreciated other assets it is using and finds that it has incorrectly estimated the useful lives of those assets. In such cases, the provider may use the corrected useful lives in determining the amount of depreciation, provided such corrections have been approved by the intermediary.

§ 405.418 Depreciation: allowance for depreciation on assets financed with Federal or public funds.

(a) *Principle.* Depreciation is allowed on assets financed with Hill-Burton or other Federal or public funds.

(b) *Application.* Like other assets (including other donated depreciable

assets), assets financed with Hill-Burton or other Federal or public funds become a part of the provider institution's plant and equipment to be used in rendering services. It is the function of payment of depreciation to provide funds which make it possible to maintain the assets and preserve the capital employed in the production of services. Therefore, irrespective of the source of financing of an asset, if it is used in the providing of services for beneficiaries of the program, payment for depreciation of the asset is, in fact, a cost of the production of those services. Moreover, recognition of this cost is necessary to maintain productive capacity for the future. An incentive for funding of depreciation is provided in these principles by the provision that investment income on funded depreciation is not treated as a reduction of allowable interest expense under § 405.419 (a) which follows.

§ 405.419 Interest expense.

(a) *Principle.* Necessary and proper interest on both current and capital indebtedness is an allowable cost.

(b) *Definitions*—(1) *Interest.* Interest is the cost incurred for the use of borrowed funds. Interest on current indebtedness is the cost incurred for funds borrowed for a relatively short term. This is usually for such purposes as working capital for normal operating expenses. Interest on capital indebtedness is the cost incurred for funds borrowed for capital purposes, such as acquisition of facilities and equipment, and capital improvements. Generally, loans for capital purposes are long-term loans.

(2) *Necessary.* Necessary requires that the interest:

(i) Be incurred on a loan made to satisfy a financial need of the provider. Loans which result in excess funds or investments would not be considered necessary.

(ii) Be incurred on a loan made for a purpose reasonably related to patient care.

(iii) Be reduced by investment income except where such income is from gifts and grants, whether restricted or unrestricted, and which are held separate and not commingled with other funds. Income from funded depreciation or provider's qualified pension fund is not used to reduce interest expense.

(3) *Proper.* Proper requires that interest:

(i) Be incurred at a rate not in excess of what a prudent borrower would have had to pay in the money market existing at the time the loan was made.

(ii) Be paid to a lender not related through control or ownership, or personal relationship to the borrowing organization. However, interest is allowable if paid on loans from the provider's donor-restricted funds, the funded depreciation account, or provider's qualified pension fund.

(c) *Borrower-lender relationship.* (1) To be allowable, interest expense must be incurred on indebtedness established with lenders or lending organizations not related through control, ownership, or personal relationship to the borrower. Presence of any of these factors could affect the "bargaining" process that usually accompanies the making of a loan, and could thus be suggestive of an agreement on higher rates of interest or of unnecessary loans. Loans should be made under terms and conditions that a prudent borrower would make in arms-length transactions with lending institutions. The intent of this provision is to assure that loans are legitimate and needed, and that the interest rate is reasonable. Thus, interest paid by the provider to partners, stockholders, or related organizations of the provider would not be allowable. Where the owner uses his own funds in a business, it is reasonable to treat the funds as invested funds or capital, rather than borrowed funds. Therefore, where interest on loans by partners, stockholders, or related organizations is disallowed as a cost solely because of the relationship factor, the principal of such loans shall be treated as invested funds in the computation of the provider's equity capital under § 405.429.

(2) Exceptions to the general rule regarding interest on loans from controlled sources of funds are made in the following circumstances. Interest on loans to providers by partners, stockholders, or related organizations made prior to July 1, 1966, is allowable as cost, provided that the terms and conditions of payment of such loans have been maintained in effect without modification subsequent to July 1, 1966. Where the general fund of a provider "borrows" from a donor-restricted fund and pays interest to the restricted fund, this interest expense is an allowable cost. The same treatment is accorded interest paid by the general fund on money "borrowed" from the funded depreciation account of the provider or from the provider's qualified pension fund. In addition, if a provider operated by members of a religious order borrows from the order, interest paid to the order is an allowable cost.

(3) Where funded depreciation is used for purposes other than improvement, replacement, or expansion of facilities or equipment related to patient care, allowable interest expense is reduced to adjust for offsets not made in prior years for earnings on funded depreciation. A similar treatment will be accorded deposits in the provider's qualified pension fund where such deposits are used for other than the purpose for which the fund was established.

(4) Allowable interest expense on current indebtedness of a provider will be adjusted to reflect the extent to which working capital needs which are attributable to covered services for beneficiaries have been met by payments to the provider designed to reimburse currently as services are furnished to beneficiaries.

§ 405.420 Bad debts, charity, and courtesy allowances.

(a) *Principle.* Bad debts, charity, and courtesy allowances are deductions from revenue and are not to be included in allowable cost; however, bad debts attributable to the deductibles and coinsurance amounts are reimbursable under the program.

(b) *Definitions*—(1) *Bad debts.* Bad debts are amounts considered to be uncollectible from accounts and notes receivable which were created or acquired in providing services. "Accounts receivable" and "notes receivable" are designations for claims arising from the rendering of services, and are collectible in money in the relatively near future.

(2) *Charity allowances.* Charity allowances are reductions in charges made by the provider of services because of the indigence or medical indigence of the patient.

(3) *Courtesy allowances.* Courtesy allowances indicate a reduction in charges in the form of an allowance to physicians, clergy, members of religious orders, and others as approved by the governing body of the provider, for services received from the provider. Employee fringe benefits, such as hospitalization and personnel health programs, are not considered to be courtesy allowances.

(c) *Normal accounting treatment: reduction in revenue.* Bad debts, charity, and courtesy allowances represent reductions in revenue. The failure to collect charges for services rendered does not add to the cost of providing the services. Such costs have already been incurred in the production of the services.

(d) *Requirements of title XVIII.* Title XVIII of the Act costs of covered services furnished beneficiaries are not to be borne by individuals not covered by the health insurance program, and conversely, costs of services provided for other than beneficiaries are not to be borne by the health insurance program. Uncollected revenue related to services rendered to beneficiaries of the program generally means the provider has not recovered the cost of services covered by that revenue. The failure of beneficiaries to pay the deductible and coinsurance amounts can result in the related costs of covered services being borne by other than beneficiaries of title XVIII. To assure that such covered service costs are not borne by others, the costs attributable to the deductible and coinsurance amounts which remain unpaid are added to the title XVIII share of allowable costs. Bad debts arising from other sources are not allowable costs.

(e) *Criteria for allowable bad debt.* A bad debt must meet the following criteria to be allowable:

(1) The debt must be related to covered services and derived from deductible and coinsurance amounts.

(2) The provider must be able to establish that reasonable collection efforts were made.

(3) The debt was actually uncollectible when claimed as worthless.

(4) Sound business judgment established that there was no likelihood of recovery at any time in the future.

(f) *Charging of bad debts and bad debt recoveries.* The amounts uncollectible from specific beneficiaries are to be charged off as bad debts in the accounting period in which the accounts are deemed to be worthless. In some cases

an amount previously written off as a bad debt and allocated to the program may be recovered in a subsequent accounting period; in such cases the income therefrom must be used to reduce the cost of beneficiary services for the period in which the collection is made.

(g) *Charity allowances.* Charity allowances have no relationship to beneficiaries of the health insurance program and are not allowable costs. The cost to the provider of employee fringe-benefit programs is an allowable element of reimbursement.

§ 405.421 Cost of educational activities.

(a) *Principle.* An appropriate part of the net cost of approved educational activities is an allowable cost.

(b) *Definitions*—(1) *Approved educational activities.* Approved educational activities means formally organized or planned programs of study usually engaged in by providers in order to enhance the quality of patient care in an institution. These activities must be licensed where required by State law. Where licensing is not required, the institution must receive approval from the recognized national professional organization for the particular activity.

(2) *Net cost.* The net cost means the cost of approved educational activities (including stipends of trainees, compensation of teachers, and other costs), less any reimbursements from grants, tuition, and specific donations.

(3) *Appropriate part.* Appropriate part means the net cost of the activity apportioned in accordance with the methods set forth in these principles.

(c) *Educational activities.* Many providers engage in educational activities including training programs for nurses, medical students, interns and residents, and various paramedical specialties. These programs contribute to the quality of patient care within an institution and are necessary to meet the community's needs for medical and paramedical personnel. It is recognized that the costs of such educational activities should be borne by the community. However, many communities have not assumed responsibility for financing these programs and it is necessary that support be provided by those purchasing health care. Until communities undertake to bear these costs, the program will participate appropriately in the support of these activities. Although the intent of the program is to share in the support of educational activities customarily or traditionally carried on by providers in conjunction with their operations, it is not intended that this program should participate in increased costs resulting from redistribution of costs from educational institutions or units to patient care institutions or units.

(d) *"Orientation" and "on-the-job training".* The costs of "orientation" and "on-the-job training" are not within the scope of this principle but are recognized as normal operating costs in accordance with principles relating thereto.

(e) *Approved programs.* In addition to approved medical, osteopathic, and dental internships and residency programs, recognized professional and paramedical educational and training programs now being conducted by provider institutions, and their approving bodies, include the following:

Program	*Approving bodies*
(1) Cytotechnology	Council on Medical Education of the American Medical Association in collaboration with the Board of Schools of Medical Technology of the American Society of Clinical Pathologists.
(2) Dietetic internships	The American Dietetic Association.
(3) Hospital administration residencies.	Members of the Association of University Programs in Hospital Administration.
(4) Inhalation therapy	Council on Medical Education of the American Medical Association in collaboration with the Board of Schools of Inhalation Therapy.
(5) Medical records	Council on Medical Education of the American Medical Association in collaboration with the Committee on Education and Registration of the American Association of Medical Record Librarians.
(6) Medical technology	Council on Medical Education of the American Medical Association in collaboration with the Board of Schools of Medical Technology, American Society of Clinical Pathologists.
(7) Nurse anesthetists	The American Association of Nurse Anesthetists.
(8) Professional nursing	Approved by the respective State approving authorities. Reported for the United States by the National League for Nursing.
(9) Practical nursing	Approved by the respective State approving authorities. Reported for the United States by the National League for Nursing.
(10) Occupational therapy	Council on Medical Education of the American Medical Association in collaboration with the Council on Education of the American Occupational Therapy Association.
(11) Pharmacy residencies	American Society of Hospital Pharmacists.
(12) Physical therapy	Council on Medical Education of the American Medical Association in collaboration with the American Physical Therapy Association.
(13) X-ray technology	Council on Medical Education of the American Medical Association in collaboration with the American College of Radiology.

(f) *Other educational programs.* There may also be other educational programs not included in the foregoing in which a provider institution is engaged. Appropriate consideration will be given by the intermediary and the Social Security Administration to the costs incurred for those activities that come within the purview of the principle when determining the allowable costs for apportionment under the health insurance program.

§ 405.422 Research costs.

(a) *Principle.* Costs incurred for research purposes, over and above usual patient care, are not includible as allowable costs.

(b) *Application.* (1) There are numerous sources of financing for health-related research activities. Funds for this purpose are provided under many Federal programs and by other tax-supported agencies. Also, many foundations, voluntary health agencies, and other private organizations, as well as individuals, sponsor or contribute to the support of medical and related research. Funds available from such sources are generally ample to meet basic medical and hospital research needs. A further consideration is that quality review should be assured as a condition of governmental support for research. Provisions for such review would introduce special difficulties in the health insurance program.

(2) Where research is conducted in conjunction with and as a part of the care of patients, the costs of usual patient care are allowable to the extent that such costs are not met by funds provided for the research. Under this principle, however, studies, analyses, surveys, and related activities to serve the provider's administrative and program needs, are not excluded as allowable costs in the determination of reimbursement under title XVIII of the Act.

§ 405.423 Grants, gifts, and income from endowments.

(a) *Principle.* Unrestricted grants, gifts, and income from endowments should not be deducted from operating costs in computing reimbursable cost. Grants, gifts, or endowment income designated by a donor for paying specific operating costs should be deducted from the particular operating cost or group of costs.

(b) *Definitions* — (1) *Unrestricted grants, gifts, income from endowment.* Unrestricted grants, gifts, and income from endowments are funds, cash or otherwise, given to a provider without restriction by the donor as to their use.

(2) *Designated or restricted grants, gifts, and income from endowments.* Designated or restricted grants, gifts, and income from endowments are funds, cash or otherwise, which must be used only for the specific purpose designated by the donor. This does not refer to unrestricted grants, gifts, or income from endowments which have been restricted for a specific purpose by the provider.

(c) *Application.* (1) Unrestricted funds, cash or otherwise, are generally the property of the provider to be used

in any manner its management deems appropriate and should not be deducted from operating costs. It would be inequitable to require providers to use the unrestricted funds to reduce the payments for care. The use of these funds is generally a means of recovering costs which are not otherwise recoverable.

(2) Donor-restricted funds which are designated for paying certain hospital operating expenses should apply and serve to reduce these costs or group of costs and benefit all patients who use services covered by the donation. If such costs are not reduced, the provider would secure reimbursement for the same expense twice; it would be reimbursed through the donor-restricted contributions as well as from patients and third-party payers including the title XVIII health insurance program.

§ 405.424 Value of Services of nonpaid workers.

(a) *Principle.* The value of services in positions customarily held by full-time employees performed on a regular, scheduled basis by individuals as nonpaid members of organizations under arrangements between such organizations and a provider for the performance of such services without direct remuneration from the provider to such individuals is allowable as an operating expense for the determination of allowable cost subject to the limitation contained in paragraph (b) of this section. The amounts allowed are not to exceed those paid others for similar work. Such amounts must be identifiable in the records of the institutions as a legal obligation for operating expenses.

(b) *Limitations; services of nonpaid workers.* The services must be performed on a regular, scheduled basis in positions customarily held by full-time employees and necessary to enable the provider to carry out the functions of normal patient care and operation of the institution. The value of services of a type for which providers generally do not remunerate individuals performing such services is not allowable as a reimbursable cost under the title XVIII health insurance program. For example, donated services of individuals in distributing books and magazines to patients, or in serving in a provider canteen or cafeteria or in a provider gift shop, would not be reimbursable.

(c) *Application.* The following illustrates how a provider would determine an amount to be allowed under this principle: The prevailing salary for a lay nurse working in Hospital A is $5,000 for the year. The lay nurse receives no maintenance or special perquisites. A sister working as a nurse engaged in the same activities in the same hospital receives maintenance and special perquisites which cost the hospital $2,000 and are included in the hospital's allowable operating costs. The hospital would then include in its records an additional $3,000 to bring the value of the services rendered to $5,000. The amount of $3,000 would be allowable where the provider assumes obligation for the expense under a written agreement with the sisterhood or other religious order covering payment by the provider for the services.

§ 405.425 Purchase discounts and allowances, and refunds of expenses.

(a) *Principle.* Discounts and allowances received on purchases of goods or services are reductions of the costs to which they relate. Similarly, refunds of previous expense payments are reductions of the related expense.

(b) *Definitions*—(1) *Discounts.* Discounts, in general, are reductions granted for the settlement of debts.

(2) *Allowances.* Allowances are deductions granted for damage, delay, shortage, imperfection, or other causes, excluding discounts and returns.

(3) *Refunds.* Refunds are amounts paid back or a credit allowed on account of an overcollection.

(c) *Normal accounting treatment: Reduction of costs.* All discounts, allowances, and refunds of expenses are reductions in the cost of goods or services purchased and are not income. When they are received in the same accounting period in which the purchases were made or expenses were incurred, they will reduce the purchases or expenses of that period. However, when they are received in a later accounting period, they will reduce the comparable purchases or expenses in the period in which they are received.

(d) *Application.* (1) Purchase discounts have been classified as cash, trade, or quantity discounts. Cash discounts are reductions granted for the settlement of debts before they are due. Trade discounts are reductions from list prices granted to a class of customers before consideration of credit terms. Quantity discounts are reductions from list prices granted because of the size of individual or aggregate purchase transactions. Whatever the classification of purchase discounts, like treatment in reducing allowable costs is required. In the past, purchase discounts were considered as financial management income. However, modern accounting theory holds that income is not derived from a purchase but rather from a sale or an exchange and that purchase discounts are reductions in the cost of whatever was purchased. The true cost of the goods or services is the net amount actually paid for them. Treating purchase discounts as income would result in an overstatement of costs to the extent of the discount.

(2) As with discounts, allowances, and rebates received from purchases of goods or services and refunds of previous expense payments are clearly reductions in costs and must be reflected in the determination of allowable costs. This treatment is equitable and is in accord with that generally followed by other governmental programs and third-party payment organizations paying on the basis of cost.

§ 405.426 Compensation of owners.

(a) *Principle.* A reasonable allowance of compensation for services of owners is an allowable cost, provided the services are actually performed in a necessary function.

(b) *Definitions*—(1) *Compensation.* Compensation means the total benefit received by the owner for the services he renders to the institution. It includes:

(i) Salary amounts paid for managerial, administrative, professional, and other services.

(ii) Amounts paid by the institution for the personal benefit of the proprietor.

(iii) The cost of assets and services which the proprietor receives from the institution.

(iv) Deferred compensation.

(2) *Reasonableness.* Reasonableness requires that the compensation allowance:

(i) Be such an amount as would ordinarily be paid for comparable services by comparable institutions.

(ii) Depend upon the facts and circumstances of each case.

(3) *Necessary.* Necessary requires that the function:

(i) Be such that had the owner not rendered the services, the institution would have had to employ another person to perform the services.

(ii) Be pertinent to the operation and sound conduct of the institution.

(c) *Application.* (1) Owners of provider organizations often render services as managers, administrators, or in other capacities. In such cases, it is equitable that reasonable compensation for the services rendered be an allowable cost. To do otherwise would disadvantage such owners in comparison with corporate providers or providers employing persons to perform similar services.

(2) Ordinarily, compensation paid to proprietors is a distribution of profits. However, where a proprietor renders necessary services for the institution, the institution is in effect employing his services, and a reasonable compensation for these services is an allowable cost. In corporate providers, the salaries of owners who are also employees are subject to the same requirements of reasonableness. Where the services are rendered on less than a full-time basis, the allowable compensation should reflect an amount proportionate to a full-time basis. Reasonableness of compensation may be determined by reference to, or in comparison with, compensation paid for comparable services and responsibilities in comparable institutions; or it may be determined by other appropriate means.

§ 405.427 Cost to related organizations.

(a) *Principle.* Costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control are includable in the allowable cost of the provider at the cost to the related organization. However, such cost must not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere.

(b) *Definitions*—(1) *Related to provider.* Related to the provider means that the provider to a significant extent is associated or affiliated with or has

control of or is controlled by the organization furnishing the services, facilities, or supplies.

(2) *Common ownership.* Common ownership exists when an individual or individuals possess significant ownership or equity in the provider and the institution or organization serving the provider.

(3) *Control.* Control exists where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution.

(c) *Application.* (1) Individuals and organizations associate with others for various reasons and by various means. Some deem it appropriate to do so to assure a steady flow of supplies or services, to reduce competition, to gain a tax advantage, to extend influence, and for other reasons. These goals may be accomplished by means of ownership or control, by financial assistance, by management assistance, and other ways.

(2) Where the provider obtains items of services, facilities, or supplies from an organization, even though it is a separate legal entity, and the organization is owned or controlled by the owner(s) of the provider, in effect the items are obtained from itself. An example would be a corporation building a hospital or a nursing home and then leasing it to another corporation controlled by the owner. Therefore, reimbursable cost should include the costs for these items at the cost to the supplying organization. However, if the price in the open market for comparable services, facilities, or supplies is lower than the cost to the supplier, the allowable cost to the provider shall not exceed the market price.

(d) *Exception.* An exception is provided to this general principle if the provider demonstrates by convincing evidence to the satisfaction of the fiscal intermediary (or, where the provider has not nominated a fiscal intermediary, the Social Security Administration), that the supplying organization is a bona fide separate organization; that a substantial part of its business activity of the type carried on with the provider is transacted with others than the provider and organizations related to the supplier by common ownership or control and there is an open, competitive market for the type of services, facilities, or supplies furnished by the organization; that the services, facilities, or supplies are those which commonly are obtained by institutions such as the provider from other organizations and are not a basic element of patient care ordinarily furnished directly to patients by such institutions; and that the charge to the provider is in line with the charge for such services, facilities, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for such services, facilities, or supplies. In such cases, the charge by the supplier to the provider for such services, facilities, or supplies shall be allowable as cost.

§ 405.428 Allowance in lieu of specific recognition of other costs.

(a) *Principle.* In lieu of specific recognition of other costs in providing and improving services, an allowance amounting to 2 percent of allowable costs (with the exception of interest expense and the allowance under this principle) is includible as an element of reasonable cost of services except that, for proprietary providers, the allowance shall be 1½ percent of allowable costs (with the exception of interest expense, the allowance under this principle and the return allowed on equity capital).

(b) *Application.* Difficulty in measurement, lack of adequate data and other considerations have precluded specific recognition of various elements which are germane to costs of services for beneficiaries. Moreover, although the methods to be utilized by providers for determining the actual cost of services provided to beneficiaries are the best available, there is some lack of percision in methods for determining costs at the present stage of development of cost finding which represents a contingency for which recognition is appropriate. It is the established practice of a significant number of large third-party purchasers to include in payment for costs of services a factor in the form of an allowance to cover various elements not specifically recognized or not precisely measured. The reduction in the allowance for proprietary providers is made because a return on equity capital is specifically recognized as a cost for proprietary providers under § 405.429.

§ 405.429 Return on equity capital of proprietary providers.

(a) *Principle.* An allowance of a reasonable return on equity capital invested and used in the provision of patient care is allowable as an element of the reasonable cost of covered services furnished to beneficiaries by proprietary providers. The amount allowable on an annual basis is determined by applying to the provider's equity capital a percentage equal to one and one-half times the average of the rates of interest on special issues of public debt obligations issued to the Federal Hospital Insurance Trust Fund for each of the months during the provider's reporting period or portion thereof covered under the program.

(b) *Application.* Proprietary providers generally do not receive public contributions and assistance of Federal and other governmental programs such as Hill-Burton in financing capital expenditures. Proprietary institutions historically have financed capital expenditures through funds invested by owners in the expectation of earning a return. A return on investment, therefore, is needed to avoid withdrawal of capital and to attract additional capital needed for expansion. For purposes of computing the allowable return, the provider's equity capital means: (1) The provider's investment in plant, property, and equipment related to patient care (net of depreciation) and funds deposited by a provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds (net of noncurrent debt related to such investment or deposited funds), and (2) net working capital maintained for necessary and proper operation of patient care activities (excluding the amount of any current payment made pursuant to § 405.454(g)(1)). However, debt representing loans from partners, stockholders, or related organizations on which interest payments would be allowable as costs but for the provisions of § 405.419(b)(3)(ii), is not subtracted in computing the amount of (1) and (2), in order that the proceeds from such loans be treated as a part of the provider's equity capital. In computing the amount of equity capital upon which a return is allowable, investment in facilities is recognized on the basis of the historical cost, or other basis, used for depreciation and other purposes under the health insurance program. For purposes of computing the allowable return the amount of equity capital is the average investment during the reporting period. The rate of return allowed, as derived from time to time based upon interest rates in accordance with this principle, is determined by the Social Security Administration and communicated through intermediaries. Return on investment as an element of allowable costs is subject to apportionment in the same manner as other elements of allowable costs. For the purposes of this regulation, the term "proprietary providers" is intended to distinguish providers, whether sole proprietorships, partnerships, or corporations, that are organized and operated with the expectation of earning profit for the owners, from other providers that are organized and operated on a nonprofit basis.

§ 405.451 Cost related to patient care.

(a) *Principle.* All payments to providers of services must be based on the "reasonable cost" of services covered under title XVIII of the Act and related to the care of beneficiaries. Reasonable cost includes all necessary and proper costs incurred in rendering the services, subject to principles relating to specific items of revenue and cost.

(b) *Definitions*—(1) *Reasonable Cost.* Reasonable cost of any services must be determined in accordance with regulations establishing the method or methods to be used, and the items to be included. The regulations in this subpart take into account both direct and indirect costs of providers of services. The objective is that under the methods of determining costs, the costs with respect to individuals covered by the program will not be borne by individuals not so covered, and the costs with respect to individuals not so covered will not be borne by the program. These regulations also provide for the making of suitable retroactive adjustments after the provider has submitted fiscal and statistical reports. The retroactive adjustment will represent the difference between the amount received by the provider during the year for covered

services from both title XVIII and the beneficiaries and the amount determined in accordance with an accepted method of cost apportionment to be the actual cost of services rendered to beneficiaries during the year.

(2) *Necessary and proper costs.* Necessary and proper costs are costs which are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities. They are usually costs which are common and accepted occurrences in the field of the provider's activity.

(c) *Application.* (1) It is the intent of title XVIII of the Act that payments to providers of services should be fair to the providers, to the contributors to the health-insurance trust funds, and to other patients.

(2) The costs of providers' services vary from one provider to another and the variations generally reflect differences in scope of services and intensity of care. The provision in title XVIII of the Act for payment of reasonable cost of services is intended to meet the actual costs, however widely they may vary from one institution to another. This is subject to a limitation where a particular institution's costs are found to be substantially out of line with other institutions in the same area which are similar in size, scope of services, utilization, and other relevant factors.

(3) The determination of reasonable cost of services must be based on cost related to the care of beneficiaries of title XVIII of the Act. Reasonable cost includes all necessary and proper expenses incurred in rendering services, such as administrative costs, maintenance costs, and premium payments for employee health and pension plans. It includes both direct and indirect costs and normal standby costs. However, where the provider's operating costs include amounts not related to patient care, or specifically not reimbursable under the program, such amounts will not be allowable. The reasonable cost basis of reimbursement contemplates that the providers of services would be reimbursed the actual costs of providing quality care however widely the actual costs may vary from provider to provider and from time to time for the same provider.

§ 405.452 Determination of cost of services to beneficiaries.

(a) *Principle.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. To accomplish this apportionment, the provider shall have the option of either of the two following methods:

(1) *Departmental method.* The ratio of beneficiary charges to total patient charges for the services of each department is applied to the cost of the department.

(2) *Combination method.* The cost of "routine services" for program beneficiaries is determined on the basis of average cost per diem of these services for all patients; to this is added the cost of ancillary services used by beneficiaries, determined by apportioning the total cost of ancillary services on the basis of the ratio of beneficiary charges for ancillary services to total patient charges for such services.

(b) *Definitions*—(1) *Apportionment.* Apportionment means an allocation or distribution of allowable cost between the beneficiaries of the health insurance program and other patients.

(2) *Routine services.* Routine services means the regular room, dietary, and nursing services, minor medical and surgical supplies, and the use of equipment and facilities for which a separate charge is not customarily made.

(3) *Ancillary services.* Ancillary services or special services are the services for which charges are customarily made in addition to routine services.

(4) *Charges.* Charges refers to the regular rates for various services which are charged to both beneficiaries and other paying patients who receive the services. Implicit in the use of charges as the basis for apportionment is the objective that charges for services be related to the cost of the services.

(5) *Cost.* Cost refers to reasonable cost as described in § 405.451(a).

(6) *Ratio of beneficiary charges to total charges on a departmental basis.* Ratio of beneficiary charges to total charges on a departmental basis, as applied to inpatients, means the ratio of inpatient charges to beneficiaries of the health insurance program for services of a revenue-producing department or center to the inpatient charges to all patients for that center during an accounting period. After each revenue-producing center's ratio is determined, the cost of services rendered to beneficiaries of the health insurance program is computed by applying the individual ratio for the center to the cost of the related center for the period.

(7) *Average cost per diem for routine services.* Average cost per diem for routine services means the amount computed by dividing the total allowable inpatient cost for routine services by the total number of inpatient days of care (excluding newborn days where nursery costs are excluded from routine service costs) rendered by the provider in the accounting period.

(8) *Ratio of beneficiary charges for ancillary services to total charges for ancillary services.* Ratio of beneficiary charges for ancillary services to total charges for ancillary services, as applied to inpatients, means the ratio of the total inpatient charges for covered ancillary services rendered to beneficiaries of the health insurance program to the total inpatient charges for ancillary services to all patients during an accounting period. This ratio is applied to the allowable inpatient ancillary costs for the period to determine the amount of reimbursement to a provider for the covered ancillary services rendered to beneficiaries.

(c) *Application*—(1) *Objective.* (i) The law provides that the costs with respect to individuals covered by the health insurance program will not be borne by individuals not so covered, and, conversely, that costs with respect to individuals who are not under the program will not be borne by the program.

(ii) The cost of services to beneficiaries of the health insurance program may be determined by either of the alternative methods, that is selected by a provider; however, the objective of whatever method of apportionment is used will be to approximate as closely as practicable the actual cost of services rendered.

(iii) The two methods of apportionment available for use in determining the cost of services rendered to beneficiaries of the program have as their goal the allocation of the total allowable costs between the beneficiaries and other patients in as equitable a manner as possible. Under these methods, if it is found that beneficiaries receive more than the average amount of services, the providers would receive reimbursement greater than average cost for all patients. Conversely, if the beneficiaries receive less than the average amount of services, the providers would be reimbursed accordingly for the services rendered.

(2) *Departmental method.* The following illustrates how apportionment based on the ratio of beneficiary charges to total charges applied to cost on a departmental basis would be determined, using only inpatient data.

HOSPITAL A

Department	Charges to program beneficiaries	Total charges	Ratio of beneficiary charges to total charges	Total cost	Cost of beneficiary services
			Percent		
Routine services	$140,000	$600,000	23⅓	$630,000	$147,000
X-ray	24,000	100,000	24	75,000	18,000
Operating room	20,000	70,000	28½	77,000	22,000
Laboratory	40,000	140,000	28½	98,000	28,000
Pharmacy	20,000	60,000	33⅓	45,000	15,000
Others	6,000	30,000	20	25,000	5,000
Total	$250,000	$1,000,000		$950,000	$235,000

The total reimbursement for services rendered by the provider to the beneficiaries would be $235,000.

(3) *Combination method*—(i) *Using cost finding.* A provider may, at its option, elect to be reimbursed on the average cost per diem for the cost of routine services, with apportionment of the cost of ancillary services on the basis of the ratio of beneficiary charges to total patient charges applied to the cost of all such ancillary services. The cost of the ancilliary services rendered to beneficiaries of the program is determined by

computing the ratio of total inpatient charges for ancillary services to beneficiaries to the total inpatient ancillary charges to all patients. This ratio is then applied to the total allowable cost of inpatient ancillary services.

COST-FINDING EMPLOYED BY HOSPITAL B

Statistical and financial data:	
Total inpatient days for all patients	30,000
Inpatient days applicable to beneficiaries	7,500
Inpatient routine services—total allowable cost	$600,000
Inpatient ancillary services—total allowable cost	$320,000
Inpatient ancillary services—total charges	$400,000
Inpatient ancillary services—charges for services to beneficiaries	$80,000
Computation of cost applicable to program:	
Average cost per diem for routine services: $600,000÷30,000 days=$20 per diem.	
Cost of routine services rendered to beneficiaries: $20 per diem × 7,500 days	$150,000
Ratio of beneficiary charges to total charges for all ancillary services: $80,000÷$400,000=20%.	
Cost of ancillary services rendered to beneficiaries: 20% × $320,000	$64,000
Total cost of beneficiary services	$214,000

(ii) *Using estimated percentage.* The provider has an option at the beginning of the program of obtaining from the intermediary and utilizing an estimated rather than a computed basis for apportioning cost between routine and ancillary services. Where a provider either elects this option or is unable to make the necessary computations by cost-finding methods as indicated in § 405.453, the intermediary will estimate the appropriate percentage of the provider's allowable cost that represents routine service costs and the appropriate percentage that represents the ancillary service costs. These percentages are to be based upon study, analysis, and judgment by the intermediary and designed to approximate the result that a cost-finding method would have produced for the particular provider. The use of estimated percentages would apply only to cost reports for periods ending before January 1, 1968. For subsequent periods, the use of cost-finding methods as described in § 405.453 will be required for the apportionment of allowable costs.

ESTIMATED PERCENTAGES EMPLOYED BY HOSPITAL C

Statistical and financial data:	
Total inpatient days for all patients	35,000
Inpatient days applicable to beneficiaries	5,000
Total allowable inpatient cost	$1,000,000
Estimated percent for routine inpatient services	70
Estimated percent for ancillary inpatient services	30
Inpatient ancillary services:	
Total charges	$400,000
Charges for services to beneficiaries	$80,000
Computation of cost applicable to program:	
Average cost per diem for routine services: 70% × $1,000,000 =$700,000 (routine service cost). $700,000÷35,000 days =$20 per diem.	
Cost of routine services rendered to beneficiaries: $20 per diem × 5,000 days	$100,000
Ratio of beneficiary charges to total charges for all ancillary services: $80,000÷$400,000 =20%.	
Cost of ancillary services rendered to beneficiaries: 30% × $1,000,000 =$300,000 (ancillary service costs). 20% × $300,000	$60,000
Total cost of beneficiary services	$160,000

(4) *Option to use departmental method or combination method for the first reporting period.* The provider has the option of using either the departmental method or the combination method for the first reporting period. Thereafter, a provider may change from one to the other method provided a request is made to the intermediary before the end of the first month of the period for which the change is to be applied and such request is approved.

(5) *Temporary methods of apportionment.* (i) The intermediary may find that a provider is unable to apply either the departmental method or the combination method employing cost finding or estimated percentages. In such case, the intermediary can authorize the provider to use, on a temporary basis, an apportionment based on the ratio of beneficiary inpatient charges to total inpatient charges applied to the total cost of all services. This would permit the provider time to establish the records necessary for applying either of the basic alternative methods of apportionment in the next accounting period. In some cases the intermediary may determine that a provider is unable to employ this temporary method of apportionment based on the ratio of beneficiary inpatient charges to total inpatient charges applied to total inpatient cost. In such a case any other method determined by the intermediary to be reasonable may be used on a temporary basis. Any temporary method of apportionment may not be used to cover more than one cost reporting period.

Example. The following illustration demonstrates the apportionment of cost based on the ratio of beneficiary inpatient charges to all inpatient charges computed on a total basis for all inpatient services.

HOSPITAL D

Financial data:	
Inpatient services:	
Total allowable cost	$950,000
Total charges	1,000,000
Charges for beneficiary services	200,000
Computation of cost of beneficiary inpatient services:	
Ratio of beneficiary charges to total charges: $200,000÷$1,000,000=20%.	
Cost of services rendered to beneficiaries: 20% × $950,000	$190,000

(ii) Whenever authorization is given to apportion costs by a method other than one of the two basic alternative methods, such authorization would be considered to be a temporary expediency to cover only one accounting period. It would be available to a provider only after diligent efforts have been made by the provider to apportion its costs based upon either of the approved methods of apportionment.

§ 405.453 Adequate cost data and cost finding.

(a) *Principle.* Providers receiving payment on the basis of reimbursable cost must provide adequate cost data. This must be based on their financial and statistical records which must be capable of verification by qualified auditors. The cost data must be based on an approved method of cost finding and on the accrual basis of accounting. However, where governmental institutions operate on a cash basis of accounting, cost data based on such basis of accounting will be acceptable, subject to appropriate treatment of capital expenditures.

(b) *Definitions*—(1) *Cost finding.* Cost finding is the process of recasting the data derived from the accounts ordinarily kept by a provider to ascertain costs of the various types of services rendered. It is the determination of these costs by the allocation of direct costs and proration of indirect costs.

(2) *Accrual basis of accounting.* Under the accrual basis of accounting, revenue is reported in the period when it is earned, regardless of when it is collected, and expenses are reported in the period in which they are incurred, regardless of when they are paid.

(c) *Adequacy of cost information.* Adequate cost information must be obtained from the provider's records to support payments made for services rendered to beneficiaries. The requirement of adequacy of data implies that the data be accurate and in sufficient detail to accomplish the purposes for which it is intended. Adequate data capable of being audited is consistent with good business concepts and effective and efficient management of any organization, whether it is operated for profit or on a nonprofit basis. It is a reasonable expectation on the part of any agency paying for services on a cost-reimbursement basis. In order to provide the required cost data and not impair comparability, financial and statistical records should be maintained in a manner consistent from one period to another. However, a proper regard for consistency need not preclude a desirable change in accounting procedures when there is reason to effect such change.

(d) *Cost finding methods.* After the close of the accounting period, one of the following methods of cost finding is to be used to determine the actual costs of services rendered during that period.

(1) *Step-down method.* This method recognizes that services rendered by certain nonrevenue-producing departments or centers are utilized by certain other nonrevenue-producing centers as well as by the revenue-producing centers. All costs of nonrevenue-producing centers are allocated to all centers which they serve, regardless of whether or not these centers produce revenue. The cost of the nonrevenue-producing center serving the greatest number of other centers, while receiving benefits from the least number of centers, is apportioned first. Following the apportionment of the cost of the nonrevenue-producing center, that center will be considered "closed" and no further costs are apportioned to that center. This applies even though it may have received some service from a center whose cost is apportioned later. Generally when two centers render service to an equal number of centers while receiving benefits from an equal number, that center which has the greatest amount of expense should be allocated first.

(2) *Other methods*—(i) *The double-apportionment method.* The double-apportionment method may be used by a provider upon approval of the intermediary. This method also recognizes that the nonrevenue-producing departments or centers render services to other nonrevenue-producing centers as well as to revenue-producing centers. A preliminary allocation of the costs of nonrevenue-producing centers is made. These centers or departments are not "closed" after this preliminary allocation. Instead, they remain "open," accumulating a portion of the costs of all other centers from which services are received. Thus, after the first or preliminary allocation, some costs will remain in each center representing services received from other centers. The first or preliminary allocation is followed by a second or final apportionment of expenses involving the allocation of all costs remaining in the nonrevenue-producing functions directly to revenue-producing centers.

(ii) *More sophisticated methods.* A more sophisticated method designed to allocate costs more accurately may be used by the provider upon approval of the intermediary. However, having elected to use the double-apportionment method, the provider may not thereafter use the step-down method without approval of the intermediary. Request for the approval must be made on a prospective basis and must be submitted before the end of the first month of the prospective reporting period. Likewise, once having elected to use a more sophisticated method, the provider may not thereafter use either the double-apportionment or step-down methods without similar request and approval.

(3) *Temporary method for initial period.* If the provider is unable to use either cost-finding method when it first participates in the program, it may apply to the intermediary for permission to use some other acceptable method which would accurately identify costs by department or center, and appropriately segregate inpatient and outpatient costs. Such other method may be used for cost reports covering periods ending before January 1, 1968.

(e) *Accounting basis.* The cost data submitted must be based on the accrual basis of accounting which is recognized as the most accurate basis for determining costs. However, governmental institutions that operate on a cash basis of accounting may submit cost data on the cash basis subject to appropriate treatment of capital expenditures.

§ 405.454 Payments to providers.

(a) *Principle.* Providers of services will be paid the reasonable cost of services furnished to beneficiaries. Interim payments approximating the actual costs of the provider will be made on the most expeditious basis administratively feasible but not less often than monthly. A retroactive adjustment based on actual costs will be made at the end of the reporting period. At the request of the provider, payment will be made on a basis designed to reimburse currently for services rendered to beneficiaries.

(b) *Amount and frequency of payment.* Title XVIII of the act states that providers of services will be paid the reasonable cost of services furnished to beneficiaries. Since actual costs of services cannot be determined until the end of the accounting period, the providers must be paid on an estimated cost basis during the year. While the law provides that interim payments shall be made no less often than monthly, intermediaries are expected to make payments on the most expeditious basis administratively feasible. Whatever estimated cost basis is used for determining interim payments during the year, the intent is that the interim payments shall approximate actual costs as nearly as is practicable so that the retroactive adjustment based on actual costs will be as small as possible.

(c) *Interim payments during initial reporting period.* At the beginning of the program or when a provider first participates in the program, it will be necessary to establish interim rates of payment to providers of services. Once a provider has filed a cost report under the health insurance program, the cost report may be used as a basis for determining the interim rate of reimbursement for the following period. However, since initially there is no previous history of cost under the program, the interim rate of payment must be determined by other methods, including the following:

(1) Where the intermediary is already paying the provider on a cost or cost-related basis, the intermediary will adjust its rate of payment to the program's principles of reimbursement. This rate may be either an amount per inpatient day, or a percent of the provider's charges for services rendered to the program's beneficiaries.

(2) Where an organization other than the intermediary is paying the provider for services on a cost or cost-related basis, the intermediary may obtain from that organization or from the provider itself the rate of payment being used and other cost information as may be needed to adjust that rate of payment to give recognition to the program's principles of reimbursement.

(3) Where no organization is paying the provider on a cost or cost-related basis, the intermediary will obtain the previous year's financial statement from the provider. By analysis of such statement in the light of the principles of reimbursement, the intermediary will compute an appropriate rate of payment.

(4) After the initial interim rate has been set, the provider may at any time request, and be allowed, an appropriate increase in the computed rate, upon presentation of satisfactory evidence to the intermediary that costs have increased. Likewise, the intermediary may adjust the interim rate of payment if it has evidence that actual costs may fall significantly below the computed rate.

(d) *Interim payments for new providers.* (1) Newly established providers will not have a cost experience on which to base a determination of an interim rate of payment. In such cases, the intermediary will use the following methods to determine an appropriate rate:

(i) Where there is a provider or providers comparable in substantially all relevant factors to the provider for which the rate is needed, the intermediary will base an interim rate of payment on the costs of the comparable provider.

(ii) If there are no substantially comparable providers from whom data are available, the intermediary will determine an interim rate of payment based on the budgeted or projected costs of the provider.

(2) Under either method, the intermediary will review the provider's cost experience after a period of 3 months. If need for an adjustment is indicated, the interim rate of payment will be adjusted in line with the provider's cost experience.

(e) *Interim payments after initial reporting period.* Interim rates of payment for services provided after the initial reporting period will be established on the basis of the cost report filed for the previous year covering health insurance services. The current rate will be determined—whether on a per diem or percentage of charges basis—using the previous year's costs of covered services and making any appropriate adjustments required to bring, as closely as possible, the current year's rate of interim payment into agreement with current year's costs. This interim rate of payment may be adjusted by the intermediary during an accounting period if the provider submits appropriate evidence that its actual costs are or will be significantly higher than the computed rate. Likewise, the intermediary may adjust the interim rate of payment if it has evidence that actual costs may fall significantly below the computed rate.

(f) *Retroactive adjustment.* (1) Title XVIII of the Act provides that providers of services shall be paid amounts determined to be due, but not less often than

monthly, with necessary adjustments due to previously made overpayments or underpayments. Interim payments are made on the basis of estimated costs. Actual costs reimbursable to a provider cannot be determined until the cost reports are filed and costs are verified. Therefore, a retroactive adjustment will be made at the end of the reporting period to bring the interim payments made to the provider during the period into agreement with the reimbursable amount payable to the provider for the services rendered to program beneficiaries during that period.

(2) In order to reimburse the provider as quickly as possible, an initial retroactive adjustment will be made as soon as the cost report is received. For this purpose, the costs will be accepted as reported—unless there are obvious errors or inconsistencies—subject to later audit. When an audit is made and the final liability of the program is determined, a final adjustment will be made.

(3) To determine the retroactive adjustment, the amount of the provider's total allowable cost apportioned to the program for the reporting year is computed. This is the total amount of reimbursement the provider is due to receive from the program and the beneficiaries for covered services rendered during the reporting period. The total of the interim payments made by the program in the reporting year and the deductibles and coinsurance amounts receivable from beneficiaries is computed. The difference between the reimbursement due and the payments made is the amount of the retroactive adjustment.

(g) *Provision for current financing.* (1) In addition to the basic procedure for payment to a provider following the submission of bills to the intermediary, payment will be made upon request by the provider on a basis designed to reimburse currently for services furnished to beneficiaries. The amount of such payment will be computed by the intermediary initially on an estimated basis and periodically adjusted to represent the average level of services unreimbursed by the basic payment procedure.

(2) A study will be made of the possibility that a financial requirement in the production of services arises prior to the rendition of services to beneficiaries and is not being met by the program. Among the factors to be considered in the study will be the extent to which outlays for consumable items for which payment may be made in advance of rendition of services are offset by outlays for other items, such as wages and salaries, which ordinarily are not made until after services are rendered.

(h) *Cost reporting period.* For cost-reporting purposes, the program will require submission of annual reports covering a 12-month period of operations based upon the provider's accounting year. At the option of the provider, however, during the first year of the program a short period report beginning July 1, 1966, and ending with the provider's accounting year may be submitted, provided such report covers at least 6 months.

[F.R. Doc. 66-12561; Filed, Nov. 21, 1966; 8:45 a.m.]